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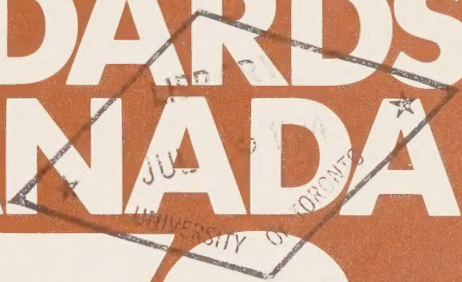
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LABOUR STANDARDS IN CANADA 1973



**Labour
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LABOUR STANDARDS

IN CANADA

December 1973

LABOUR CANADA

Legislative Research Branch

Hon. John Munro, Minister

Thomas Eberlee, Deputy Minister

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FOREWORD

This publication sets out the provisions of federal and provincial labour standards laws enacted by the end of 1973 in the areas of statutory school-leaving age, minimum age for employment, minimum wages, equal pay for equal work, hours of work, weekly rest-day, annual vacations, general holidays, termination of employment and maternity protection. The standards set by labour ordinances of the Yukon and Northwest Territories are included as a separate chapter.

"Standards" as used in the title means the minimum standards required by law. These standards are set out in narrative form and in tables, where appropriate.

By way of explanation, the format of the Labour Standards in Canada, 1973 has been changed in order to hasten its availability to the public.

The publication was prepared by Mr. Brien Gray and Mrs. Rosemary O'Hara.

C.R. Scott,
Director,
Legislative Research Branch,
Canada Department of Labour.

March 1974.



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DIVISION OF LEGISLATIVE POWERS

Both the Parliament of Canada and the provincial legislatures have the power to enact labour laws. The jurisdiction of the provincial and federal governments arises from The British North America Act, Sections 91 and 92. Judicial interpretation of these sections gives provincial legislatures major jurisdiction, with federal authority limited to a narrow field.

Provincial authority is derived from the "property and civil rights" subsection of the B.N.A. Act. The right to enter into contracts is a civil right, and since labour laws impose certain restrictions on contracts between employers and employees, they fall within provincial authority as property and civil rights legislation. Provinces also have the right to legislate as to "local works and undertakings."

Federal jurisdiction in the labour law field arises from the right to regulate certain subjects expressly assigned to Parliament by Section 91 of the B.N.A. Act, or expressly excepted from provincial jurisdiction by Section 92. These subjects are of a national, international or inter-provincial nature. In addition, Parliament has jurisdiction to regulate works wholly within a province which have been declared by Parliament to be works "for the general advantage of Canada or for the advantage of two or more of the provinces," as, for example, grain elevators, feed mills and uranium mines. By virtue of its exclusive power to regulate certain works and undertakings, Parliament has the incidental power to enact labour laws relating to those works and undertakings.

The Canada Labour Code applies to:

- (1) Works or undertakings connecting a province with another province or country, such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals and telegraph, telephone and cable systems.
- (2) All extra-provincial shipping and services connected with such shipping, e.g., longshoring and stevedoring.

- (3) Air transport, aircraft and aerodromes.
- (4) Radio and television broadcasting.
- (5) Banks.
- (6) Defined operations of specific works that have been declared to be for the general advantage of Canada or of two or more provinces, such as flour, feed and seed cleaning mills, feed warehouses, grain elevators and uranium mining and processing.
- (7) Most federal Crown corporations, e.g., the Canadian Broadcasting Corporation and the St. Lawrence Seaway Authority.

The jurisdiction of Parliament is generally limited to the above industries, with certain possible additions arising from subsequent judicial decisions.

In addition, Parliament has exclusive jurisdiction to pass laws dealing with the Yukon and Northwest Territories. Parliament has enacted legislation for local government in each territory, having power over property and civil rights and matters of a local and private nature. Accordingly, the territorial governments have virtually the same legislative powers with regard to labour laws as do the provinces.

STATUTORY SCHOOL-LEAVING AGE

In all provinces there is a school attendance law which makes it compulsory for children between specified ages to attend school. Exceptions are permitted where a child is unable to attend because of illness or other unavoidable cause and, in most provinces, because of distance from school (where no conveyance is provided) or lack of school accommodation. Some Acts stipulate that a child may be excused from attendance before reaching the statutory school-leaving age if he has already attained a specified standing. An exception may also be granted in special cases, if it appears to be in the interest of the child that he should be excused from school attendance or where the child is certified to be under efficient instruction elsewhere.

In Manitoba, a child over 15 may be permitted to leave school on production of a certificate signed by his parent or guardian, the school attendance officer and the superintendent of schools or, if there is no superintendent, by the school inspector.

In five provinces, a child may be exempted from school attendance for a temporary period on the application of his parent or guardian, if his services are required for necessary farm or home duties or for employment. The New Brunswick Schools Act states that the Minister of Education may issue a certificate relieving a child from school attendance for a maximum period of six weeks in each school term, on the written application of the child's parent, if he agrees with the reasons for such application. In Prince Edward Island, the Minister of Education may certify in writing to the regional school board that a child should be exempted from school attendance. No such exemptions are provided for in Alberta, British Columbia and Ontario.

The employment of children of school age during school hours is forbidden unless a child is excused for any reason provided in the Act. The school-leaving age in each province and the provisions for exemption for employment are shown in the table below.

1. Statutory School-leaving Ages
and Work Exemptions

Province	School-leaving Age	Work Exemptions
Alberta	16	
British Columbia	15--unless course completed at nearest public school and transport to higher school not provided	
Manitoba	16--must attend to end of school term	Over 12, for not more than 4 weeks in a school year if services needed in husbandry or home duties Over 15, with certifi- cate signed by parent, attendance officer and superintendent of schools
New Brunswick	15--unless Grade 12 passed	For not more than 6 weeks in each school term if Minister agrees with reasons for parents' application
New- foundland	15--must attend to end of school year	For period stated in certificate if services needed for maintenance of self or others, child under 12 for not more than 2 months in a school year except with approval of Minister

Province	School-leaving Age	Work Exemptions
Nova Scotia	16	If 12, for not more than 6 weeks in a school year if services needed for home duties or other necessary employment If 13, with employment certificate if services needed for maintenance of self or others; medical certificate may be required
Ontario	16--unless secondary school or equivalent completed, Must attend to end of school year	
Prince Edward Island	15	If Grade 12 completed or Minister certifies exemption from school attendance
Québec	15--must attend to end of school year	For not more than 6 weeks in a school year if services needed in farming, home duties or maintenance of self or relatives
Saskatchewan	16--unless Grade 8 or equivalent passed also where exemption permitted by superintendent	If services needed for maintenance of self or others

MINIMUM AGE FOR EMPLOYMENT

The Canada Labour Code, Part III and regulations do not set an absolute minimum age for employment, but lay down conditions under which young persons under 17 years may be employed in federal undertakings. A young person under 17 may be employed in a federal industry only if he is not required to be in attendance at school under the laws of his province; the work in which he is to be employed is not likely to injure his health or endanger his safety; and he is not employed underground in a mine or in work prohibited for young workers under the Explosive Regulations, the Atomic Energy Control Regulations or the Canada Shipping Act.

Employment for young workers under 17 is subject to two further conditions: that an employee under 17 is not required or permitted to work between 11 p.m. and 6 a.m.; and that he is paid not less than \$1.65 an hour, unless he is undergoing on-the-job training under an approved training plan.

The Canada Shipping Act fixes a minimum age of 15 for employment at sea.

In the provincial jurisdictions, a minimum age for employment is set by mines Acts and a variety of other provincial legislation (child labour laws, Child Welfare Acts, the Alberta Labour Act, the Manitoba Employment Standards Act, factory or industrial safety laws and minimum wage orders).

Four provinces -- British Columbia, Nova Scotia, Prince Edward Island and Newfoundland -- have a child labour law, prohibiting employment below a specified age. The Newfoundland Employment of Children Act, 1968, is to go into force upon proclamation.

The British Columbia Control of Employment of Children Act forbids employment of a child under 15 in specified industries or occupations, unless a permit is obtained from the Minister of Labour. The Act applies to manufacturing, shipbuilding, electrical works, logging, construction, catering, public places of amusement, the mercantile industry, shoeshine stands, automobile service stations, road transport and the laundry, cleaning and dyeing industry.

Under the Nova Scotia Labour Standards Code, sections 65-67, employment of a child under 16 is forbidden in industrial undertakings (including mines, quarries and construction), the forest industry, garages and service stations, hotels and restaurants, operating elevators, theatres, dance halls, shooting galleries, bowling alleys and billiard and pool rooms, and in any employment prohibited by regulation. Subject to any Act or regulations, this restriction does not apply to an employer who employs members of his family. The employment of children under 14 is prohibited in work unwholesome or harmful to health or normal development, or which prejudices attendance at school or the child's capacity to benefit from instruction; for more than eight hours in a day; for more than three hours in a school day (except with an employment certificate); on any day for a period that, when added to school hours, totals more than eight; at night between 10 p.m. and 6 a.m.; or any work employment prohibited by regulation. The Nova Scotia Construction Safety Act sets a minimum age of 16 years for employment in construction.

The Prince Edward Island law (the Minimum Age of Employment Act) sets a minimum age of 15 years for employment in mining, manufacturing, shipbuilding, electrical works, construction and transport by road, rail or inland waterway.

The Newfoundland Act, which has not been proclaimed, prohibits the employment of children under the age of 16. There is provision in the Act, however, for the making of regulations by the Lieutenant Governor in Council permitting the employment of children under 16 in any specified occupation, subject to such conditions as may be prescribed.

The Act lays down the conditions under which a child under 16 may not be employed. He may not be employed to do any work that is or may be harmful to his health or normal development or that may prejudice his attendance at school or his capacity to benefit from school instruction. He may not work more than eight hours in a day or more than three hours on a school day. Time spent at school and at work may not total more than eight hours. Work between the hours of 9 p.m. and 8 a.m. is prohibited. Further, he may not be employed during a strike or lockout. Children under the age of 14 may not be employed in any occupation specified by regulation.

Two other provinces -- Alberta and Manitoba -- have fixed a minimum age for most employment in their labour codes.

In Alberta, a person under 15 may not be employed in any employment except with the written consent of the parent or guardian and the approval of the Board of Industrial Relations. As the school-leaving age is 16 and no exemptions are allowed for employment, children under 16 may work only when school is not in session. However, a person under the age of 15 may be employed if they have been excused from school attendance under the School Act for the purpose of securing vocational training through employment; or if they are enrolled in a work experience program approved by the Minister of Education and the Board of Industrial Relations.

A regulation under the Alberta Labour Act contains several provisions governing the employment of persons under 18 years. Children over 12 and under 15 may be employed: as deliverers of small wares for a retail store; clerks in a retail store; clerks or messengers in an office; or deliverers of newspapers, flyers or handbills if the employment is not likely to be injurious to the life, limbs, health, education or morals of the person. The parents of a person under 15 shall file with the employer written consent for the employment of the person. Employment of such person is limited to two hours in a day on which they are required to attend school; or eight hours on non-school days. Employment of a person under 15 is prohibited between 9 p.m. and 6 a.m. Further, persons over 15 and under 18 are forbidden to work between 12:01 a.m. and 6:00 a.m. unless that person is working with and is under direct and continuous supervision of a person who is over the full age of 18 years.

In Manitoba, a child under 16 may not be employed in a factory. For any other employment, the minimum age is 16, unless a written permit is obtained from the Minister of Labour.

Five provinces have Child Welfare Acts which limit the employment of children in various ways. Under the Newfoundland Act, no child under 16 may be employed: (1) between 9 p.m. and 8 a.m. except in employment in which members of the employer's family are employed under his or her supervision; or (2) in any occupation prohibited by an order of the Lieutenant Governor in Council. Employers are forbidden to employ an unmarried girl under 16 in

a restaurant, tavern or hotel without the written consent of her parents or guardian. Neither may a child under 16 be employed for remuneration when he is required to be at school by the provisions of the School Attendance Act, 1962. In Alberta, the Child Welfare Commission may grant licences for employment of a child over 12 in any entertainment under certain conditions. It must be satisfied that there is no danger to the child's life, limbs, health, education or morals and that provision is made for his health and kind treatment. Where a person employs a child to perform for profit in public without a licence or contrary to the provisions of a licence he is guilty of an offence. Under the Manitoba Child Welfare Act a municipal council may pass by-laws for regulating, controlling and licensing children employed as messengers, newspaper vendors, shoe shiners, pin boys or juvenile entertainers. No child may work for a fee in any of these occupations without a licence. No licence shall be issued to any female child or any male child under 12. Nor shall any child over 12 but under 14 be granted a licence without the authorization of his parents or guardian. No child may work at the occupation for which he is licensed during school hours nor (unless he is a juvenile performer) after specified hours in the evening, depending on the season. No person may habitually employ a child between the hours of 9.00 p.m. and 6.00 a.m. nor may he employ a child in any occupation likely to be injurious to his life, limbs, health, education or morals. Severe fines and penalties are imposed for abuses of children against the provisions of the Act.

The Saskatchewan Welfare Act provides that a child who is employed between 10 p.m. and 6 a.m. of the following day may be apprehended by a welfare officer or peace officer and taken to a place of safety. A person who (a) causes a child to be in a public place for the purpose of begging, etc., under the pretence of performing; or (b) causes a child under 13 to be employed between 10 p.m. and 6 a.m.; or (c) causes a child to be in a circus or place of public amusement to perform for profit is guilty of an offence and liable to a fine or imprisonment or both. A licence may be issued by the mayor or other authority to permit a child to take part in public entertainment under suitable conditions.

In the other provinces, a minimum age for a wide field of employment is established in factory or industrial safety laws and, in Saskatchewan, a minimum wage order.

In New Brunswick, the Industrial Safety Act prohibits the employment of a child under 16 years of age in any place of employment without a written authorization from the Minister.

In Ontario, the minimum age for employment in an industrial establishment is 15 years. "Industrial establishment" is defined as being an office, factory or shop. A child of 14 may be employed in a shop, office or office building, restaurant, bowling alley, pool room or billiard parlour if the work is not likely to endanger his safety. The Child Welfare Act provides that girls under 16 and boys under 12 must not engage in or be licensed or permitted to engage in any street-trade or occupation. Boys between 12 and 16 must not engage in such trade between 9p.m. and 6 a.m.

The Ontario Construction Safety Act fixes a minimum age of 16 years but permits the employment of 15-year-olds in such parts of a construction project as may be designated by the regulations. No provision has been made in the regulations to date for the employment of 15-year-olds. A minimum age of 16 has been established for the logging industry.

As the school-leaving age in Ontario is 16 years and no exemptions are now permitted for employment, the above-mentioned minimum ages which are below the age of 16 apply only to such time as school is not in session. No child under 16 may be employed in any employment during school hours.

In Québec, the minimum age for employment in an industrial or commercial establishment is 16 years. The same minimum age applies to employment in hotels, restaurants, theatres and other places of amusement and to the employment by a department store or telegraph company of boys or girls as messengers. Children of 15 years of age may be employed in any of these workplaces during school vacations, but only with a permit from the inspector.

Boys and girls under 16 are forbidden to sell papers or carry on any street trade unless they can read and write fluently, and such work may not be carried on after 8 p.m.

In Saskatchewan, no person under 16 may work in a factory (which term includes dry cleaning establishments and laundries, garages and service stations, and coal, potash and sodium sulphate mines) or in a hotel, restaurant, educational institution, hospital or nursing home. Regulations may be made prohibiting the employment of young persons under 18 in factories where the work is deemed dangerous or unwholesome. Unless a permit is obtained from an inspector, the hours of work for young persons under 18 are limited to 48 in a week and night work is forbidden.

Mines Acts in all provinces but Prince Edward Island (which has no mining operations) fix the minimum age for employment in mines. In all jurisdictions females are forbidden to work in mines.

The minimum age for employment in mines, factories, shops, hotels and restaurants is set out in the table below. In most provinces, as indicated above, the legislation (apart from mines Acts) covers certain other classes of establishments in addition to those set out in the table.

2. Minimum Age for Employment

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Alberta	17	15 except with permit ¹	15 except with permit ¹ ₂	15 except with permit ¹
British Columbia	18 below ground ³	15 except with permit	15 except with permit	15 except with permit
Manitoba	16 above 18 below	16	16 except with permit	16 except with permit
New Brunswick	Coal: 16 Metal: 16 above 18 below	16 except with permit	16 except with permit	16 except with permit
*Newfoundland	16 above ⁴ 18 below	16 ⁴	16 ⁴	16 ⁴
Nova Scotia	Coal: 18½ below Metal: 16 above 18 below	16 ⁴	14	16 ⁴
Ontario	16 above 18 below	15 ¹	14½ ¹ ₅	14½ ¹ ₅ (restaurants only)
Prince Edward Island	15	15	--	--
Québec	15 above 18 below	16 ⁶ ₇	16 ⁶	16 ⁶ ₇
Saskatchewan	16 above 18 below	16	--	16

*Act not yet proclaimed in force.

¹A child under 16 may not be employed during school hours.

²Minimum age of 12 years in certain occupations, including work as clerk, delivery boy or delivery girl in retail store, with written consent of parent and subject to restrictions on hours (2 hours in a school day, 8 hours on any other day) if not injurious to life, limbs, health, education or morals.

³A boy who has reached the age of 17 may be employed underground for the purpose of training.

⁴Except in family undertakings.

⁵A child of 14 may be employed if the work is not likely to endanger his safety.

⁶The Government may exempt establishments from the Act.

⁷For certain dangerous occupations, the minimum age is 18 for boys; for others, it is 16 for boys and 18 for girls.

MINIMUM WAGES*

Minimum wage laws are in force in the federal jurisdiction and in all ten Canadian provinces.

The Canada Labour Code (Part III, Division II) sets a minimum rate for employees 17 years of age and over in the federal industries. This rate may be increased from time to time by order of the Governor in Council. The rate for persons under 17 is established by regulation.

Employees who are paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to be paid the equivalent of the minimum wage.

An employer who is providing on-the-job training to increase the skill or proficiency of his employees, in accordance with conditions prescribed by the regulations, may be exempted from paying the minimum wage to such employees during the whole or part of the training period.

The Code provides also for the payment of a wage lower than the minimum rate to handicapped employees under a system of individual permits.

In Alberta, Manitoba, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan, minimum wage legislation is part of each province's labour code -- the Alberta Labour Act, Part III, Division II; the Manitoba Employment Standards Act, Part II; the Nova Scotia Labour Standards Code, sections 48-54; the Ontario Employment Standards Act, Part V; the Prince Edward Island Labour Act, Part II, section 51; the Saskatchewan Labour Standards Act, Part III. The other provinces have individual minimum wage laws.

In most provinces, minimum wage boards or other labour boards are authorized by law to recommend minimum rates of wages or to establish such rates with the approval of the Lieutenant Governor in Council. In Ontario minimum rates are established by the Lieutenant Governor

*In a number of jurisdictions, increased minimum wage rates will come into effect early in 1974 (i.e., federal, Alberta, British Columbia, New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island and Québec).

in Council. In Alberta and British Columbia they are set by the Boards of Industrial Relations. The rates are then imposed by minimum wage orders or, in Ontario and Manitoba, by regulations under the provincial Employment Standards Act.

Except in two provinces, the Acts do not specify how the minimum wage is to be determined. In Manitoba, the board is directed to take into consideration and be guided by "the cost to an employee of purchasing the necessities of life and health." The Québec Minimum Wage Commission is directed to consider "competition from outside countries or from the other provinces and the economic conditions peculiar to the various regions of the province."

The practice is to fix a general basic wage, taking into account the cost of living, economic conditions and other relevant factors. The minimum wage rate is set mainly for the protection of the unorganized and unskilled worker. It constitutes a floor above which trade unions may negotiate with management for a higher standard. The boards hold public hearings and make extensive inquiries before minimum wage orders are put into effect. Minimum wage orders are reviewed fairly frequently.

The boards are composed of members who represent the interests of employers and employees and in some cases the general public, with an impartial chairman, frequently an officer of the Department of Labour. In British Columbia at least one member of the board must be a woman, and in Nova Scotia and Saskatchewan there must be two women on the board.

In most provinces, minimum wage orders now cover practically all employment. Domestic service in private homes is excluded in all provinces except Prince Edward Island. Farm labour is also excluded in all provinces except Newfoundland. In Ontario and Nova Scotia this exclusion is limited to farming proper, certain farm-related occupations being covered. Persons in Manitoba who are employed in selling horticultural or market garden products grown by another person are covered. In Saskatchewan, minimum wage rates apply to egg hatcheries, greenhouses, nurseries and brush clearing operations, and in Alberta and Prince Edward Island to farm workers employed in commercial undertakings.

A few other classes of workers are excluded in most jurisdictions. Typical exclusions are supervisory and managerial employees, certain categories of employed students, registered apprentices, certain categories of salesmen, and members and students of professions.

Minimum wage orders apply to both men and women, and in nine provinces they set the same rate for both sexes. In Prince Edward Island, rates are lower for women than for men. However, on July 1, 1974 minimum wage rates will be the same for both sexes. Newfoundland, on April 1, 1972 and Nova Scotia on July 1, 1972 abolished the sex differential system of minimum wages.

In all provinces general orders are issued setting hourly rates that apply to most workers throughout the province. In five provinces, these general orders are supplemented by special orders, applying to a particular industry, occupation or class of workers and in some cases taking into account a special skill.

British Columbia, which originally had a separate minimum wage order for each industry or occupation, has been consolidating its orders. Twelve special orders still remain; the minimum rates set by these orders are the same as the rate set in the general order.

Québec has three industry orders, governing the retail food trade, sawmills and forest operations. Formerly there were eight special orders. The rates set by the special order governing sawmills are lower than the general rates; the rates under the retail food trade and forestry orders are higher.

The other provinces set only a few special rates. Nova Scotia has established rates for employees in beauty parlors and province-wide rates for logging and forest operations and for road building and heavy construction. Special rates for construction, mining and primary transportation and for logging, forest and sawmill operations have been set in New Brunswick. A weekly rate has been set in Alberta for commercial agents and salesmen. Special rates contained within the general regulation in Ontario apply to the construction and ambulance service industries.

In three provinces the orders provide that inexperienced workers may be employed during a specified period at a rate below the regular minimum. These rates may be applicable generally or to a particular occupation.

Provision is also made in the legislation of almost all jurisdictions for the employment of handicapped workers at rates below the established minimum, usually under a system of individual permits.

In all provinces except Saskatchewan, the orders set special minimum rates for young workers or for young workers in certain categories, such as newsboys or messengers. Student rates are set in two provinces.

In addition to setting minimum wage rates, minimum wage legislation usually contains other related provisions intended to protect the worker. The most prevalent of these provisions are described below.

Tipping is dealt with specifically in the Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Québec and federal legislation. These provisions make it clear that gratuities are not to be counted as part of wages. Québec orders state that tips are the exclusive property of the employee, and the employer is not allowed to deduct them or to consider them as part of the wages paid, even with the employee's consent. Boards in other provinces take the position that gratuities are not to be regarded as wages.

Québec regulations state that employees who work in hotel trade establishments and who usually receive tips are entitled to the minimum hourly rate less 30 cents.

There are provisions in the orders of most provinces (and also in the federal labour Code) relating to the charges or deductions for board and lodging, where furnished by the employer to the employee.

In some jurisdictions (federal, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island and Québec), the orders set limits on the amounts by which such charges may reduce the minimum wage. The Ontario orders fix the maximum amounts at which meals or a room or both may be valued for minimum wage purposes, where board and lodging are provided as part of wages. In the other provinces, the orders set the maximum charges or deductions that may be made.

Maximum charges or deductions are not set in British Columbia orders. If the board finds that services are inadequate or charges are excessive, it may specify the maximum charges that may be made.

Requirements are also laid down in some minimum wage orders regarding the provision and maintenance of uniforms, where these are required to be worn.

Most general orders contain a "daily guarantee" or "call-in-pay" provision requiring that an employee who is called to work be paid for a certain number of hours, even if he is not put to work or if he works for a shorter period. This two-, three-, or four-hour minimum period, as the case may be, must be paid for at the minimum rate, except in British Columbia, where payment is required at the employee's regular rate of pay.

3. General Minimum Wage Rates for
Experienced Adult Workers
(up to December 31, 1973)

Jurisdiction		Rates per Hour	
Federal	Employees 17 and over:	\$1.90	
Alberta	Employees 18 and over:	\$1.90	
British Columbia	Employees 18 and over:	\$2.25	
Manitoba	Employees 18 and over:	\$1.90	
New Brunswick	Employees 18 and over:	\$1.50 ¹	
Newfoundland	Employees over 18:	\$1.40	
Nova Scotia	Employees 18 and over:	\$1.65	
Ontario		\$1.80	
Prince Edward Island	Employees 18 and over:		
	men:	\$1.40	
	women:	\$1.30	
Québec	Employees 18 and over:	\$1.85 ²	
Saskatchewan		\$2.00	

¹New Brunswick -- Waitresses, waiters, doormen, bellmen and assistant bell captains, \$1.35.

²Québec -- Employees of hotel trade establishments (e.g., hotels, restaurants, bars, camping grounds, etc.) who usually receive tips are entitled to general hourly rate less 30 cents an hour.

4. Minimum Wage Rates for
Young Workers and Students*
(up to December 31, 1973)

Jurisdiction	Rates per Hour	
Federal	Employees under 17:	\$1.65
Alberta	Employees under 18:	\$1.75
	Students under 18 employed part-time:	\$1.40
British Columbia	Employees under 18:	\$1.85 ¹
Manitoba	Employees under 18:	\$1.65
New Brunswick	Employees under 18:	\$1.35 ²
Newfoundland	Employees 16-18:	\$1.10
Nova Scotia	Employees 14-18:	\$1.40 ³
Ontario	Students under 18 employed for not more than 28 hours in a week or during a school holiday:	\$1.45 ⁴
Prince Edward Island	Employees under 18:	\$1.20
Québec	Employees under 18:	\$1.75 ⁵

*Saskatchewan has no special rates
for young workers or students.

-
- ¹British Columbia -- Does not apply to bus operators, resident caretakers, or taxicab drivers.
- ²New Brunswick -- Does not apply in construction, mining, primary transportation, logging or forest and sawmill operations.
- ³Nova Scotia -- Except with approval of Minimum Wage Board, no more than 25% of employer's total workforce may be underage employees (14-18), except where his total working force is 7 or less he may employ 2. In a hotel, restaurant, motel or tourist resort during the period June 15 - September 15, up to 60% of employees may be underage workers. These rates do not apply in beauty parlours, logging and sawmill operations or road building and heavy construction.
- ⁴Ontario -- Student rates do not apply to the ambulance or construction industries.
- ⁵Québec -- Rate of \$1.35 for sawmill workers under 18 set by ordinance governing sawmills.

5. Minimum Rates and Learning Periods
for Inexperienced Workers*

Jurisdiction	Hourly Rates and Learning Periods	
Nova Scotia	During first 3 months of employment:	\$1.40 ¹
Ontario	During first month of employment:	\$1.70 ²

*No provision for lower rates for learners in federal jurisdiction, British Columbia, Manitoba, Prince Edward Island, New Brunswick, Newfoundland, Québec or Saskatchewan. In Alberta a learner's rate is set only for workers in the garment industry. In addition to the general rate for experienced workers, Nova Scotia has a learner's rate for beauty parlours.

¹Nova Scotia -- Inexperienced employees are persons with less than 3 months' experience in the work for which they are employed. Without the express approval of the Minimum Wage Board, the number of underage or inexperienced employees employed by the employer may not exceed 25% of his total working force. An employer whose total working force is seven or less may employ two inexperienced employees. However, in the case of an employer operating a motel, hotel, restaurant or tourist resort from June 15 to September 15, up to 60% of the persons employed may be underage or inexperienced employees during this period.

²Ontario -- Not more than 20% of total number of employees in an establishment may be employed as learners, and only persons who have no previous experience in the work may be paid learners' rates.

6. Maximum Charges Permitted
for Board and Lodging*
(up to December 31, 1973)

Jurisdiction	Meals		Lodging		Board and
	single	per week	per day	per week	Lodging per week
Federal	50¢		60¢		
Alberta	55¢	\$10 for 21 meals in 7- day week \$9 for 18 meals in 6- day week	75¢ for period less than week	\$5.00 for full 7- day week	
Manitoba	50¢			\$5.00	
New Brunswick ¹	75¢				\$2.25 per day
Newfoundland	40¢	\$7.00		\$3.00	\$10.00
Nova Scotia ²	45¢	\$8.00		\$4.00	\$12.00
Ontario	75¢	\$15.00		\$7.00	\$22.00
Prince Edward Island	45¢	\$8.00		\$4.00	\$12.00
Québec ³	75¢			\$6.00	\$21.00
Saskatchewan ⁴	60¢ or \$1.80 per day			60¢	

*No maximum charges set in British Columbia.

¹New Brunswick -- Applies to construction, mining, primary transportation and logging and sawmill operations only.

²Nova Scotia -- Logging and forest operations: board and lodging, \$2.40 per day; construction, no charges set; beauty parlour employees same as table.

³Québec -- Sawmill and forest operations: single meal, 65¢; board and lodging, \$1.95 per day; retail food trade, same as table.

⁴Saskatchewan -- Applies to hotels and restaurants and employees earning \$85 or less a week in educational institutions, hospitals and nursing homes only.

EQUAL PAY

The Parliament of Canada and all provinces but Québec have enacted laws which require equal pay for equal work without discrimination on the grounds of sex.

The Québec fair employment practices law forbids discrimination in employment on the basis of sex, thus prohibiting, among other things, discrimination in rates of pay solely on the grounds of sex. Similar prohibitions against discrimination in employment are contained in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Ontario human rights legislation.

In four jurisdictions equal pay provisions are contained in the labour code -- the Canada Labour Code, Part III, Division II.1; the Ontario Employment Standards Act, Part VI; the Saskatchewan Labour Standards Act, Part V; and the Nova Scotia Labour Standards Code (sections 55-57). In four other provinces equal pay provisions form part of human rights legislation -- the Alberta Individual's Rights Protection Act, the British Columbia Human Rights Act and the Newfoundland and Prince Edward Island Human Rights Codes. Manitoba and New Brunswick have separate equal pay Acts.

The Newfoundland and New Brunswick legislation forbids an employer to pay a female employee at a rate of pay less than the rate paid to a male employee for the same work done in the same establishment.

The Prince Edward Island Act states that an employer may not pay a female employee at a rate of pay less than the rate paid to a male employee for substantially the same work done in the same establishment. The British Columbia Act refers to the same work or substantially the same work done in the same establishment.

The Alberta Act forbids an employer to employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer (or vice versa) for similar or substantially similar work. The work is deemed to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar. Reduction of an employee's rate of pay in order to comply with the legislation is prohibited.

The federal, Ontario, Saskatchewan and Manitoba provisions also protect persons of either sex against discrimination in the payment of wage rates. These provinces, and also Nova Scotia, lay down criteria for determining whether the work performed is the same or similar.

In the federal jurisdiction, an employer is forbidden to establish or maintain differences in wages between male and female employees employed in the same industrial establishment, who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility.

In Ontario and Saskatchewan, the employer is prohibited from paying a female employee at a lesser rate of pay than that paid to a male employee, (or vice versa) for the same work (similar work in Saskatchewan) performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions. Nova Scotia's provisions are identical to Ontario's except that they only apply to female employees.

In the federal, Alberta, Ontario and Saskatchewan jurisdictions the employer is forbidden to reduce the rate of pay of an employee in order to comply with the equal pay requirement. Further, in Ontario, employee or employer organizations may not cause or attempt to cause an employer to pay wages that contravene the equal pay provisions of the Act.

In Manitoba an employer is forbidden to pay the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment, if the work required of, and done by, employees of each sex is the same or substantially the same. By way of clarification, the Act states that the work of male and female employees is to be deemed the same or substantially the same if the job, duties, responsibilities, or services that the employees are called upon to perform are the same or substantially the same in kind or quality and substantially equal in amount.

All the Acts make it clear that a difference in rates of pay based on a factor other than sex does not constitute failure to comply with their requirements. In Nova Scotia, however, the employer must establish that such a factor justifies a different rate of pay.

The Ontario and Saskatchewan Acts contain specific exceptions in addition to the general exception permitting a differential based on any factor other than sex. In both provinces, differences in rates of pay based on: a seniority system; a merit system; or in Ontario, a system that measures earnings by quantity or quality of production; do not constitute discrimination within the terms of the Act.

In all provinces, except British Columbia, equal pay legislation is applicable to provincial government employees. The federal Act covers employees of Crown corporations but does not apply to other federal public servants. Rates of pay of classified public servants are set by classification, according to the type of work performed, without any distinction based on sex.

The procedure laid down for the enforcement of equal pay provisions may be invoked upon complaint by the aggrieved person in British Columbia, New Brunswick, Newfoundland and Prince Edward Island.

In Alberta, Manitoba and Nova Scotia, investigation may be initiated upon complaint by the aggrieved person or upon the initiative of the director appointed under the Act. In addition, in Manitoba any person may file a complaint on behalf of the aggrieved person. The provisions of the Saskatchewan Act require the director, where he receives a directive from the Minister or a request from the aggrieved person, to advise the Human Rights Commission of the complaint and to request the commission to conduct a formal inquiry into the matter.

In the federal, Ontario and Nova Scotia jurisdictions enforcement no longer depends solely on a formal complaint. The equal pay provisions are enforced through inspection by the field staff of the respective Departments of Labour.

A complaint is to be registered in Newfoundland, New Brunswick and Prince Edward Island with the Minister of Labour (of Manpower and Industrial Relations in Newfoundland); and in British Columbia, Manitoba and Saskatchewan with a designated officer of the Department of Labour (the director). In Alberta, complaints are made to the Human Rights Commission. The Alberta and British Columbia legislation impose a six-month time limit for making a complaint.

In all jurisdictions, except Ontario, Nova Scotia and the federal industries, the legislation provides for an initial informal investigation into a complaint, usually by an officer of the Department of Labour. In Alberta, such an investigation is made by the Human Rights Commission.

In Newfoundland and New Brunswick, if the person designated to make the inquiry is unable to settle the matter, a board or commission of one or more persons may be appointed. In Newfoundland the commission is called the Human Rights Commission. (In Newfoundland, the Minister may, in addition, appoint a commission when he deems it desirable to have an inquiry made into any matter within the purview of the Act.)

In Alberta, the Human Rights Commission will refer a complaint that is not settled under the initial investigation to a Board of Inquiry (appointed by the Minister) to investigate the matter. In British Columbia and Saskatchewan, the director may refer the matter to the Human Rights Commission, a permanent body established under the Act. In Alberta and British Columbia, the Commission may dismiss a complaint at any stage of proceedings if it is of the opinion that it is without merit. Under the Manitoba Act, the second stage of the procedure is the appointment of a referee, who may or may not be an officer of the Department of Labour. In Prince Edward Island, the Minister must inquire into the matter if it is not settled at the earlier stage.

The board, commission, ad hoc committee, referee or Minister is given full powers to conduct a formal inquiry. All the Acts provide that the parties to the complaint must be given an opportunity to present evidence and to make representations.

The recommendations of the board, commission, committee or referee, as the case may be, may be put into effect by an order of the Minister except the Alberta, British Columbia and Saskatchewan Acts. Under the Alberta Act, the recommendations of the board are made to the Commission. If the Commission is unable to effect a settlement on the course of action to be taken with the person against whom the finding was made, the Commission must deliver all material pertaining to the complaint to the Attorney General who may apply to the Supreme Court for an order. The Human Rights Commission must issue an order and in Saskatchewan it may issue an order if it

finds that there has been a contravention of the Act. In Prince Edward Island, if the Minister finds the complaint to be justified, he must direct the course of action that ought to be taken and may issue an order to carry out the course of action into effect. Under all the Acts, compliance with the order is required.

In Newfoundland, the order of the Minister may be appealed to the Supreme Court. Under the Alberta Act, a decision of the board of inquiry may be appealed to the Supreme Court. An appeal of a decision or order made by the Saskatchewan Human Rights Commission may be made to a judge of the Court of Queen's Bench. In British Columbia, an order of the Human Rights Commission may be enforced by filing it in the Supreme Court of the province.

The British Columbia Human Rights Commission may direct the person whom it has found to be in contravention of the Act to cease or rectify the contravention. It may also include in its order a direction to pay the wages lost as a result of the contravention. In Saskatchewan, where the Human Rights Commission finds that a contravention of the Act has been made it may order compliance with the provisions including the payment of compensation to the aggrieved party for previous service that was the subject of the complaint. Every person who violates the provisions of the federal Act is guilty of an offence and is liable on summary conviction to a fine, imprisonment, or both. The employer may also be directed to pay arrears of wages to which the employee was entitled. In Alberta the judge may order compensation for the person discriminated against for all or any part of any wages or income lost or expenses incurred by reason of the discriminatory action.

In Ontario, the Director of Employment Standards (who, under the direction of the Minister of Labour, administers the Employment Standards Act) has authority to determine the amount of wages owing to an employee, where in his opinion an employer has contravened the equal pay provisions. The employer must be given a chance to be heard. For purposes of enforcement of the Act, this amount is to be deemed unpaid wages.

Where the Director cannot determine the amount owing, the Minister may, on his recommendation, appoint a board of inquiry. The board is required to hear the parties and to recommend to the Director the course of action that ought to be followed.

Under the wage collection procedure of the Employment Standards Act, the Director is empowered to collect unpaid wages for an employee up to a maximum of \$2,000 and the employer is subject to a penalty of 10 per cent of the amount owing. An employer who has paid the wages and penalty as required, has the right to apply to the Minister for a review, whereupon a person designated by the Minister is required to hold a hearing, giving the employer full opportunity to make submissions, and to decide the amount owing to the employee. If the employer is dissatisfied with the Minister's decision, he may appeal the decision to the Supreme Court on the grounds that it is erroneous in point of law or in excess of jurisdiction.

The legislation in Nova Scotia is similar to that in Ontario. Where the Director of Labour Standards finds that an employer has not paid equal wages, he may direct the employer to pay the amount due to the employee to the Labour Standards Tribunal. If he disputes the direction, the employer may apply to the Tribunal for a determination of the amount. If the Tribunal finds the employer is indebted to the employee, it must order the employer immediately to pay over to the Tribunal the amount of pay found to be unpaid. The person to whom the order is directed must forthwith comply with the order.

Provision is made in all the Acts for prosecution in the Courts as a last resort. Failure to comply with the Act or an order is made an offence punishable by a fine. In Newfoundland, Ontario and Saskatchewan, the convicting magistrate must order the payment of wages due, in addition to imposing a fine. Under the federal Act, an employer convicted of an offence under the Act may, in addition to any other penalty, be made liable for payment of wages found to be due.

Each of the Acts, except the Acts of British Columbia and New Brunswick, make it an offence for an employer to dismiss or otherwise discriminate against an employee because he has made a complaint or given evidence under the Act.

A number of the laws provide that a person claiming to be aggrieved by an alleged contravention of the Act has a choice of initiating court proceedings or of making a complaint. Some Acts stipulate that the right of an employee to take any other proceeding for recovery of wages to which he is entitled is not barred by reason of any remedy provided for in the Act.

HOURS OF WORK

FEDERAL

Hours of work of employees in undertakings within the federal labour jurisdiction are regulated by the Canada Labour Code, Part III, Division I.

The Code sets a standard workday and workweek and requires payment of an overtime rate for work done beyond the hours specified. It also establishes a maximum workweek, overtime hours being restricted to 8 in a week, except in special circumstances.

Under the Code, standard hours (the number of hours that may be worked at regular rates of pay) are limited to 8 in a day and 40 in a week. Hours in excess of 8 and 40 may be worked, however, provided one and one-half times the regular rate is paid, up to a maximum of 48 hours in a week.

In a week in which an employee is entitled to a general holiday with pay (under Part III, Division IV of the Code) the overtime rate is to be paid after 32 hours, instead of 40. In calculating overtime for the week, no account is to be taken of any time worked on the holiday.

Because some types of employment may call for a more flexible arrangement of working hours, the Code permits the averaging of hours over a period of two or more weeks. Under a system of averaging, working hours may vary from day to day or from week to week so long as the total standard hours do not exceed 40 multiplied by the number of weeks in the averaging period. The overtime rate (one and one-half times the regular rate) must be paid at the end of the averaging period for all hours worked in excess of such standard hours. The total number of hours that may be worked by an employee in an averaging period is the product of the number of weeks in the period multiplied by 48.

Averaging is permitted for any class of employees who have no regularly scheduled working hours or who have regular hours but the number of hours scheduled differs from time to time. On notification to the Department of Labour, an employer may select an averaging period of 13 weeks or less.

If an employer requires a longer period for averaging than 13 weeks in order to provide for a period in which fluctuations take place (e.g., where there are seasonal rush and slack periods during the year), he must obtain the approval of the Minister of Labour. The same conditions apply as to a period of 13 weeks or less. The period over which hours may be averaged may be as long as a full year.

An employer who has adopted an averaging plan is required to post clear information about the plan in places where it can readily be seen by the employees affected.

When an employee terminates his employment of his own accord during an averaging period, he is paid his regular rate for his hours worked but he is not entitled to overtime pay. If this employment is terminated by the employer, however, he must be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.

Exceptions from the maximum workweek are permitted in certain circumstances. Work in excess of 48 hours in a week (or the maximum hours established in an averaging period) may be allowed under permit, when the Minister, having given due regard to the conditions of employment and the welfare of the employees, is satisfied that such exceptional conditions exist as to make the working of additional hours necessary.

A permit is issued for a definite period of no longer duration than the time the exceptional circumstances are expected to continue. The permit may specify either the total amount of excess overtime that may be worked in the period or the additional number of hours per day or per week that the employees may work. The number of employees engaged in such excess overtime and the extent of the overtime worked by each must be reported in writing to the Minister within 15 days after the overtime permit expires or within a time fixed in the permit.

Maximum weekly hours may also be exceeded to make up for the time lost due to an accident, breakdown in machinery or other emergency. The employer is required to report such emergency work within a specified time.

In order to deal with the special problems of some industries, regulations may be made, after public inquiry, varying the standard and maximum hours for classes of employees in any specified establishment where the Code provisions would be unduly prejudicial to the interests of the employees or seriously detrimental to the operation of the establishment, or entirely exempting a class of employees from the hours provisions where they cannot reasonably be applied. Two regulations (the Motor Vehicle Operators Hours of Work and the Motor Vehicle Operators Hours of Service Regulations) issued under the Canada Labour Code establish standard hours of work and maximum hours of service for employees in the inter-provincial transport of goods and passengers or the transport of mail anywhere in Canada. In addition, a new regulation sets maximum hours of work for West Coast shipping employees.

Regulations may also be made specifying the circumstances under which the overtime rate will not apply because work practices make it unreasonable or inequitable. A general regulation issued under the Canada Labour Code provides for exemption from the overtime provisions in circumstances where there is an established work practice that requires or permits an employee to work in excess of standard hours for the purpose of changing shifts or permits an employee to exercise seniority rights to work in excess of standard hours pursuant to a collective agreement.

Different hours of work provisions have been established temporarily under the former deferment provisions of the Code for some industries, including shipping on the St. Lawrence River, the East Coast and Newfoundland.

PROVINCIAL

General Hours of Work Laws

Five provinces have Acts of general application regulating working hours (the British Columbia Hours of Work Act; the Alberta Labour Act, Part III, Division I; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, Part III; and the Saskatchewan Labour Standards Act, Part II).

The Acts of British Columbia, Ontario and Alberta set a maximum number of hours per day and per week beyond which an employee must not work. Hours are limited in British Columbia to 8 in a day and 44 in a week and in Ontario to 8 in a day and 48 in a week. Maximum hours of work in Alberta are limited to 8 in a day and 44 in a six day week. The weekly hours of work may be varied to provide for an average of 44 per week in each consecutive four-week period, provided that the total number in any one week does not exceed 48 hours.

All three laws provide for exceptions in certain circumstances. Exceptions are authorized in orders or regulations or through the issuing of a permit. In both Alberta and British Columbia, the administrative board has authority not only to permit working hours to exceed statutory limits but also to fix the minimum wage payable for overtime. In both provinces the board has made special orders for a considerable number of industries, permitting variations from the daily and weekly hours specified in the Act for exempting workers entirely from hours limitations.

In Ontario, the Director of Employment Standards may, by permit, authorize hours of work in an establishment in excess of 8 and 48, subject to specific limits laid down in the Act. The limit for overtime is 12 hours in a week for an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman, or any other person who, in the opinion of the Director, is engaged in a similar occupation. For most other employees the limit for excess hours is 100 hours in each year for each employee.

The Director may also issue a permit authorizing working hours in excess of the overtime limits set out above, if he is satisfied that the nature of the work or the perishable nature of the raw material being processed requires the excess hours.

In no case may a girl under the age of 18 work more than 6 hours overtime in a week.

Subject to certain exceptions set out in the regulations, one and one-half times the regular rate must be paid for work done, under permit, beyond 48 hours in a week. The employee's regular rate of pay must not be reduced in complying with this requirement.

Taxi drivers, and ambulance drivers and their helpers are not entitled to overtime pay. In certain industries -- highway transport, local cartage, road building, sewer and watermain construction, the hotel, motel, tourist resort, restaurant and tavern industry (seasonal employees) and fruit and vegetable processing (seasonal employees) -- extended hours, 50, 55 or 60, as the case may be, may be worked before the overtime rate applies.

The Manitoba and Saskatchewan Acts set standard hours as opposed to maximum hours. They do not limit the hours which may be worked in a day or in a week but require the payment of time and one-half the regular rate after 8 hours in a day and 40 hours in a week in Saskatchewan and 8 hours in a day and 44 hours in a week in Manitoba. To prevent the working of excessively long hours, the Saskatchewan Act empowers the Lieutenant Governor in Council to limit daily hours in any occupation to 12, except in special circumstances or when permission to work longer hours has been obtained from the Minister of Labour.

The Manitoba and Saskatchewan laws also provide for exceptions. The Manitoba law permits working hours to be varied in certain circumstances without payment of the overtime rates. The Manitoba Labour Board must review once a year any orders it makes under this authority. In Saskatchewan, regulations permit hours to be averaged over a specified period, thus allowing some variation from week to week. Certain classes of employees have been entirely exempted from the Act, with the result that these classes have no entitlement to overtime pay.

Under all the Acts, there is provision for working daily hours in excess of 8 in order to establish a compressed work week, so long as weekly hours are not exceeded. There is also provision, except in Saskatchewan, for hours to be exceeded in emergencies.

The standards set under hours of work laws and the application of each Act in general terms are set out in Table 7.

The Nova Scotia provisions respecting hours of work are incorporated in the Labour Code. The Minimum Wage Board is empowered, after investigation and subject to the approval of the Lieutenant-Governor in Council, to

issue orders determining the daily or weekly hours of work for persons employed in industrial undertakings. Currently the maximum hours per week are set at 48. The number of hours of work per day and/or per week may be varied in certain cases. The hours per day may vary provided that the total hours per week do not exceed the standard set by the Board. In addition, the hours of work may be exceeded in case of accident, urgent work, or force majeure, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking. The hours of work limit may also be exceeded where shift work is required.

Other Legislation Restricting Hours

Apart from general hours of work laws, other statutes regulate working hours in some industries.

Schedules under industrial standards legislation in seven provinces and decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act regulate hours in construction and other industries. Schedules and decrees apply to designated zones; a number apply throughout the province.

Generally speaking, standard weekly hours for the construction industry range from 40 to 48, with a 40-hour week being the usual standard in the larger centres. In Québec, a 40-hour week is set for tradesmen, a 42½-hour week for labourers and a 50-hour week for road building.

In another industry regulated by schedules and decrees in Ontario and Québec, the garment industry, standard weekly hours are usually 37½ or 40. In a few branches of the industry in Québec, standard hours have been reduced to 35.

In Manitoba, maximum hours which may be worked at regular rates are set under the Construction Industry Wages Act, which applies to both private and public construction work. At the present time an 8-hour day and a 40-hour week is in effect for most classifications of construction work in the Greater Winnipeg area, and a 44-hour week in the rest of the province. In the heavy

construction industry, the maximum hours of work payable at regular rates are 60 except in Metropolitan Winnipeg during the period from November 1 to April 30, when a 48-hour week is in effect.

Working hours of women and young persons are restricted by the New Brunswick Minimum Employment Standards Act and by factory legislation in two other provinces. Under the New Brunswick Minimum Employment Standards Act, which is applicable to any place of employment other than a private home or federal undertaking, hours of women and boys under 18 years are limited to 9 in a day and 48 in a week, unless special permission to work longer hours is obtained from the Minister of Labour. Québec factory law restricts hours of women and boys under 18 to 9 in a day and 50 in a week in factories and to 54 hours in a week in commercial establishments. In Saskatchewan, women and boys under 18 employed in factories are prohibited from working more than 48 hours in a week.

In Newfoundland, the Hours of Work Act limits working hours of shop employees anywhere in the province to 8 in a day and 40 in a week, unless one and one-half times the regular rate is paid.

In all provinces except Manitoba, Ontario and Saskatchewan, there is also some indirect regulation of hours by virtue of provisions in minimum wage orders requiring the payment of an overtime rate after a specified number of hours of work.

A general minimum wage order in British Columbia encompasses a number of special groups formerly governed by separate orders. The order covers the auto repair and gasoline service station industry; barbers and hairdressers; the construction industry; electronic technicians; outside employees in irrigation districts; the logging, sawmill, woodworking and Christmas tree industries; the trades of machinists, moulders, refrigeration and sheet metal; patrolmen; pipeline construction; ship and boat building; and stationary engineers.

The standard workweek under the general order is 40 in a week and 8 in a day. Maximum hours are set at 44 in a week and 8 in a day. Payment of time and one-half the regular rate is required after 8 hours in a day and in excess of 40 in a week excluding hours worked in excess of 8 in any one day. Employees working under a written permit from the Board of Industrial Relations or

pursuant to an agreement confirmed by the Board with respect to hours of work must be paid time and one-half the employee's regular rate of pay for all hours worked in excess of a weekly average of 40 over the averaging period, excluding hours worked in excess of 8 in any one day.

In Saskatchewan, the Minimum Wage Board has no authority to fix overtime rates. All overtime pay requirements are laid down in the Labour Standards Act and orders under it. In Manitoba, overtime pay requirements are contained in Part III of the Employment Standards Act and regulations. In Ontario, overtime pay is required under the Employment Standards Act and regulations.

A minimum wage order of considerable significance with regard to working hours because of its wide coverage is the new General Minimum Wage Order 4 in Québec. Order 4 is a blanket order applying to all employees in the province except those covered by decrees, workers governed by special minimum wage orders, farm workers, domestic servants, and a few other minor groups. The minimum rates set by Order 4 apply to a standard workweek of 45 hours, after which an overtime rate of one and one-half times the minimum rate must be paid. A few classes of employees are excluded from these overtime provisions (e.g., hotel trade).

Night Work for Women

In Québec, under the Industrial and Commercial Establishments Act, women are permitted to work on the night shift under certain conditions.

The Act authorizes the Minister of Labour to grant a permit allowing women 18 and over to work on a third shift in an industrial establishment, if he is satisfied that the nature of production, market conditions and other special circumstances require it. Before ruling on an application for a permit, the Minister must request the opinion of the certified trade union.

Hours of work on the third shift may not exceed 8, and work must not begin before 11 p.m. or after midnight. A lunch break of at least 30 minutes must be allowed around the middle of the shift, and two rest periods of 10 minutes each must be granted in the intervals before and after the refreshment period. Wage rates for the night shift must not be less than those for the two other shifts, and if premium pay is given for night work, it must be paid to the women employees on the shift.

The employer must ensure the safety of women who leave work before 7 a.m. by providing them with convenient and safe transportation to their homes at his expense.

Regulations made under the Act lay down further conditions. At least one female supervisor, nurse or first aid attendant must be present on the night shift, and there must be at least two women besides the female supervisor in each workroom or workshop. A permit may not be issued for a period longer than a year. It may be revoked without notice for breach of any of the conditions under which it was issued.

In Ontario, no girl under 18 may work in an establishment between midnight and 6 a.m. If the work period of a female employee of 18 or over begins or ends between midnight and 6 a.m. her employer must provide her with private transportation at his expense from her residence to the place of work or from the workplace to her home. Provision is also made for eating periods of at least one-half hour.

Manitoba minimum wage regulations contain a similar provision, requiring employers to provide women employees whose work begins or ends between midnight and 6 a.m. with adequate transportation, without cost to the employee, between the place of residence and the place of employment.

In Saskatchewan, women employees in hotels, restaurants, educational institutions, hospitals and nursing homes who are required or permitted to finish work between 12.30 a.m. and 7 a.m. must be provided by the employer with free transportation to their homes. Night work for women is prohibited in factories, except with a permit from the inspector.

7. General Hours of Work Laws

Jurisdiction	Standards Set	Application
Federal	Standard hours: 8, 40 after which $1\frac{1}{2}$ times the regular rate Maximum hours: 48	Federal industries Exclusions: managers, superintendents and pro- fessional employees Exceptions ¹
Alberta	Maximum hours: 8, 44 after which $1\frac{1}{2}$ times the regular rate	Most employees Exclusions: managerial and confidential employees, farm labour, domestic ser- vice, crown employees and municipal policemen Exceptions ¹
British Columbia	Maximum hours: 8, 44 Overtime at $1\frac{1}{2}$ times the regular rate in excess of 40 in a week and 8 in a day	Industries in Schedule (e.g., manufacturing, mercantile, catering, construction, mining, barbering, elevator operators, hotel clerks, truck drivers, bus operators) Exclusions: managerial and confidential employ- ees Exceptions ¹
Manitoba	Standard hours: 8, 44 after which $1\frac{1}{2}$ times the regular rate	Most employees Exclusions: professional employees, farming, domestic service, fish- ing, construction, travel- ling salesmen and a few other classes of employees
Nova Scotia	Maximum hours: 48	Most employment Exclusions: professional employees, farm labour, domestic servants, certain trainees, certain types of salesmen Exceptions ¹

Jurisdiction	Standards Set	Application
Ontario	Maximum hours: 8, 48	Most employment Exclusions: supervisory and managerial employees, professional employees, farm workers, domestic servants, construction, commercial fishermen, resident janitors or caretakers, and a few other classes of employees Exceptions ¹
Saskatchewan	Standard hours: 8, 40 after which 1½ times the regular rate	Most employment Exclusions: northern area of province, managerial employees, farm workers, domestic servants, certain professions, commercial travellers, logging, road construction, certain handicapped empl- oyees, certain family members and a few other classes of employees Exceptions ¹

¹Different standards set by
regulation for some industries.

8. Overtime Rates

Jurisdiction	Overtime Rates
Federal	$1\frac{1}{2}$ times the regular rate after 8 or 40 hours
Alberta	$1\frac{1}{2}$ times the regular rate after 8 or 44 hours
British Columbia	$1\frac{1}{2}$ times the regular rate after 8 or 40 hours*
Manitoba	$1\frac{1}{2}$ times the regular rate after 8 or 44 hours
New Brunswick	$1\frac{1}{2}$ times the minimum rate after 48 hours*
Newfoundland	$1\frac{1}{2}$ times the minimum rate after 48 hours ¹ *
Nova Scotia	$1\frac{1}{2}$ times the minimum rate after 48 hours ² *
Ontario	$1\frac{1}{2}$ times the regular rate after 48 hours ³
Prince Edward Island	$1\frac{1}{2}$ times the minimum rate after 48 hours ⁴ *
Québec	$1\frac{1}{2}$ times the minimum rate after 45 hours ⁵ *
Saskatchewan	$1\frac{1}{2}$ times the regular rate after 8 or 40 hours

* Set by minimum wage orders.

¹ Newfoundland -- Not applicable to farm workers. Shop employees governed by Hours of Work Act, $1\frac{1}{2}$ times the regular rate after 8 or 40 hours.

² Nova Scotia -- Road building and heavy construction, and employees in transport industry required to be away from home base overnight, $1\frac{1}{2}$ times minimum rate after 96 hours in two weeks.

³ Ontario -- Highway transport, $1\frac{1}{2}$ times regular rate after 60 hours; local cartage, $1\frac{1}{2}$ times regular rate after 55 hours; road building, $1\frac{1}{2}$ times regular rate after 50 or 55 hours, depending on class of work; watermain construction, $1\frac{1}{2}$ times regular rate after 50 hours; seasonal employees not working more than 16 weeks in a year in fruit and vegetable processing industry and in hotel, motel, tourist resort, restaurant and tavern industry (in latter case, if provided with room and board), $1\frac{1}{2}$ times regular rate after 55 hours.

⁴ Prince Edward Island -- Seasonal food processing, $1\frac{1}{2}$ times minimum rate after 60 hours.

⁵ Québec -- Employees in fishing or fish processing, watchmen and employees engaged in fruit and vegetable picking and processing during the harvest season are not entitled to overtime pay; forest operations, $1\frac{1}{2}$ times the minimum rate after 48 hours; sawmills, $1\frac{1}{2}$ times the minimum rate after 50 hours.

WEEKLY REST-DAY

The Canada Labour Code (Section 31) provides that employees must be given at least one full day of rest in the week, on Sunday, wherever possible.

Two exceptions from this general rule are provided for in the regulations. A weekly rest-day does not need to be granted where working hours are averaged over a specified period.

Where working hours in excess of 48 in a week are allowed under a permit from the Minister of Labour, the Minister may specify in the permit that a weekly rest need not be scheduled, as required by the Code, and may prescribe alternative periods of rest.

Six provinces -- Alberta, British Columbia, Manitoba, New Brunswick, Québec and Saskatchewan -- provide for a weekly rest-day but the provisions vary in scope. These provisions are applicable to most employees within each jurisdiction whereas the weekly rest-day provisions in Newfoundland, Nova Scotia and Ontario are restricted to a few groups of employees.

The Alberta Labour Act requires all employed persons except farm workers and domestic servants to be given a day of rest in each consecutive period of seven days, unless the Board of Industrial Relations orders that the hours of rest be allowed in two periods or that a longer period than 24 hours be granted. The Act enables the Board to make special provisions for days of rest in industries which ordinarily operate at least one shift on each day of the week, and permits a consecutive rest period to be granted every four weeks or in relation to some other work period which the Board considers proper. The Board has made special provision for accumulated days of rest in the highway and railway construction, geophysical exploration, land surveying, brush clearing, oil well drilling, oil well service and pipeline construction industries, for employees of rural municipalities engaged in road work, and for cooks, night watchmen, etc., in lumber camps.

The general order under the British Columbia Minimum Wage Act provides for a rest period of 32 consecutive hours weekly. This order applies to most employees not covered by special orders. Farm labourers

and domestic workers are not covered by these provisions. The orders governing the logging, sawmill, woodworking and Christmas tree industries, shipbuilding, first aid attendants, patrolmen employed by private agencies, taxi-cab drivers, resident caretakers and funeral parlours also require a 32-hour rest period to be granted. Different arrangements may be made on application of the employer and employees concerned, if the Board of Industrial Relations approves.

In Manitoba, the Employment Standards Act provides that a weekly day of rest, if possible Sunday, must be granted to most employees. Exempted are farm workers; independent contractors; persons employed in agriculture, fishing, fur farming, dairy farming or growing of horticultural or market garden products for sale; domestics in a private home; specified volunteer workers; beneficiaries under a rehabilitation or therapeutic project given employment; students of professions; professionals; watchmen, janitors and firemen living in the building in which they are employed; managers and supervisory employees; repair workers in emergencies; and persons employed for not more than three hours on a weekly rest-day merely for the purpose of looking after horses as part of their usual duty. The Minister of Labour is given discretion to exempt a particular undertaking from the application of weekly rest provisions for a fixed period or indefinitely. Where a plant is exempted, each employee must be given an additional holiday without pay for each weekly day of rest to which he would have been entitled except for the permit of exemption, and the holidays may be accumulated.

Under the Newfoundland Weekly Day of Rest Act, an employer is required to grant his employees a weekly rest period of at least 24 consecutive hours, wherever possible on Sunday. The requirement does not apply to employees engaged in emergency work, or to persons employed solely in senior managerial capacities, as defined by regulation. The latter group has been defined to include managers, superintendents, supervisory personnel who themselves are not supervised, and members of specified professions.

Any employer or class of employers may be exempted by regulations, subject to such conditions as may be prescribed. Currently excluded are employers operating in remote areas whose employees have given the employer written notice that they do not wish a rest period; employees engaged in catching, handling and processing herring; and certain other narrowly defined groups in the fishing, pulp and paper and mining industries.

The Minister of Manpower and Industrial Relations may grant a permit exempting an employer from compliance with the Act for a period not exceeding 30 days in case of accident, urgent and necessary work to be done to premises or equipment, abnormal pressure of work, or danger of loss of perishables. The Minister may cancel or renew a permit and there is no restriction on the number of permits or renewals that may be granted to an employer. Where a permit is issued, an employee accumulates a period of holidays equivalent to the missed rest periods, with or without pay, in conformity with the pay provisions applicable to the missed rest periods. The employer must allow the accumulated holidays to be taken within 30 days of the expiry or the renewal of a permit.

The Newfoundland Hours of Work Act, which applies to shops throughout the province, requires shop assistants to be given a day off each week in addition to Sunday, except in the weeks in which one of the eight general holidays occurs. In the weeks in which one of the five other specified holidays occurs, they must be given a day off in addition to Sunday and the holiday.

The New Brunswick Minimum Employment Standards Act requires employers to give their employees a weekly rest of at least 24 consecutive hours, to be taken if possible on Sunday. Where a weekly rest is impracticable, the Minister of Labour may permit rest periods to accumulate and to be taken later, either part at a time or all together. The only employees not covered are farm workers, domestic servants, employees required to cope with an emergency and part-time workers who are not usually employed more than five hours in a day. Certain groups of employees may be designated by the Lieutenant Governor in Council as being outside the scope of the Act.

In Nova Scotia, employees in industrial undertakings (e.g., mining, manufacturing, construction) must be granted a rest period of at least 24 consecutive hours in every period of 7 days, preferably to all employees simultaneously on Sunday. This provision may be exceeded in continuous processes.

In Ontario, in cities of 10,000 or more people, workers in hotels and restaurants must be allowed a weekly rest-day, Sunday if possible. Watchmen, janitors, foremen, and those employed for five hours or less in a day are exempted.

In Québec, Minimum Wage Order 4, applying generally to all industries within the scope of the Act not covered by special orders, provides for a weekly rest of at least 24 consecutive hours for the employees covered by its provisions. Farm workers, domestic servants and employees covered by decrees under the Collective Agreement Decrees Act are the only workers not within the scope of the Minimum Wage Act. The four special minimum wage orders also provide for a weekly rest of 24 consecutive hours. A regulation under the Québec Weekly Day of Rest Act, states that persons employed in hotels, restaurants or clubs in places of at least 3,000 population must have 24 consecutive hours of rest in a week. In the Québec district, the inspector may permit two periods of 18 hours each instead of one 24-hour period. Where there is only one cook, the 24-hour rest may be replaced by two 12-hour periods.

The Saskatchewan Labour Standards Act provides for a weekly rest of at least 24 consecutive hours, wherever possible on Sunday. Exempted are workers employed in farming, ranching or market gardening, domestic servants, firemen, managerial employees, family employees employed in family undertakings and employees who are not usually employed for more than five hours in a day. The Minister of Labour may by permit exempt an employer from compliance with the weekly rest requirement for a specific period not exceeding one year. Any class of employers or employees may be excluded by regulations of the Lieutenant Governor in Council, subject to such conditions as may be prescribed.

ANNUAL VACATIONS WITH PAY

The Canada Labour Code, Part III, Division III provides for a vacation with pay of at least two weeks in respect of every year of employment. Vacation pay is four per cent of wages for the year in which the employee establishes his claim to a vacation.

A year of employment, under the federal law, must be continuous with one employer, and may be a 12-month period commencing with the day the employee began to work for the employer or any subsequent anniversary of that date, or it may be a calendar year or another year approved by the Minister of Labour.

All provinces have annual vacations legislation. The provisions regarding annual vacations with pay are contained in the Alberta Labour Act, Part III, Division 2, and in two orders under it (a general order and a special order for the construction industry); in the Ontario Employment Standards Act, Part VII and regulations; in Québec Minimum Wage Order 3; in the Saskatchewan Labour Standards Act, Part I, and regulations; and in the Prince Edward Island Labour Act. British Columbia provides for annual vacations with pay and public holidays in one statute, the Annual and General Holidays Act. Manitoba, New Brunswick and Newfoundland have separate annual vacations laws. The Nova Scotia Labour Standards Code contains the vacation with pay provisions. Vacation with pay provisions are also contained in most decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act. Some industrial standards schedules make provision for pay in lieu of annual vacations.

The Canada Labour Code applies to industries within federal jurisdiction and the only employees excluded are those who are managers or superintendents or who exercise management functions, and members of the medical, dental, architectural, engineering and legal professions.

The provincial laws govern employees in employment within the jurisdiction of the province, with the exception of the classes of employees noted below. The Newfoundland Act provides for the exemption of employees or classes of employees by order of the Lieutenant-Governor in Council. No regulations have yet been made.

Farm workers are excluded in all provinces except Newfoundland. In addition, British Columbia excludes persons employed in horticulture, and Manitoba and Saskatchewan, those employed in ranching and market gardening. (In Alberta, Ontario, Prince Edward Island and Nova Scotia, workers in certain occupations related to farming are covered. Similarly in Saskatchewan, the Act applies to egg hatcheries, green houses and nurseries and bush clearing operations, and in Manitoba to landscape gardening and growing flowers, plants, ornamental shrubs and trees). Domestic servants are exempted in all provinces except Newfoundland, Prince Edward Island and Saskatchewan. Certain provisions of the Saskatchewan Act do not apply to employees employed in an undertaking in which only members of the employer's family are employed. Certain categories of employed students are excluded in Ontario and Québec. Also excepted are workers employed in commercial fishing in Nova Scotia and Ontario.

Professional workers are excluded in British Columbia, Nova Scotia and Ontario. Salesmen paid entirely by commission and other special categories of salesmen, such as real estate and insurance agents are outside the scope of the Alberta and Nova Scotia vacation provisions. These same two provinces exclude real estate salesmen. Persons working outside an employer's establishment and without possible control over the number of days per week spent at their work are excluded from the Québec vacation order. Part-time workers employed 24 hours or less in a week are not covered in New Brunswick or Prince Edward Island; and those employed for eight hours or less in a week are exempted from the Alberta order.

The large group of workers governed by collective agreement decrees are outside the scope of the Québec vacation order. Workers governed by a collective agreement in British Columbia are exempted from the Act if the Minister of Labour approves the vacation provisions of the agreement.

The length of the vacation period and the vacation pay requirements in the various jurisdictions are shown in Table 9.

In Ontario and Saskatchewan, non-continuous prior service may be counted for vacation purposes. In Ontario, if an employee has completed 12 months of non-continuous employment in any period of 36 months after 1966, he is entitled to a vacation. Non-continuous employment includes employment of a person who consistently works all or part of a working day or days in each regular pay period.

In Saskatchewan, the period of four years of employment with the same employer necessary for an employee to qualify for a 3-week vacation may be made up of "accumulated" years, provided that no break in employment exceeds 6 months (182 days). Effective July 1, 1973, an employee with 15 years of service will be entitled to a 4-week vacation. During the following five years the length of the qualifying service would diminish by one year; thus after July 1, 1978, the entitlement to a 4-week vacation would be earned after 10 years and each subsequent year of employment.

As indicated in the table, Alberta and Manitoba require the payment of regular pay for the vacation period. Regular pay means the pay the employee would have earned for his normal hours of work during the vacation period and includes the cash value of board and lodging, where provided.

In the other jurisdictions, vacation pay is a percentage of the employee's earnings for the period during which he establishes his right to a vacation. The Acts vary in what is included as earnings.

In Québec, if a worker has not completed a year's service for the same employer, he is entitled to a continuous vacation of one day for each working month. Similarly, in Saskatchewan, regulations provide that, in order to make the vacation entitlement date of his employees uniform, an employer may grant to an employee with less than a year's service a continuous vacation of one day for each month of employment. The Board of Industrial Relations in Alberta may, in making a vacation pay order, require an employer to give an employee who has not completed a year of employment a vacation in proportion to the time worked.

Most of the laws specify the working time constituting a year of employment. In British Columbia and New Brunswick, a year's service consists of not less than 225 working days (in New Brunswick, working days or shifts). In Manitoba, an employee is held to have completed a year's service if he has worked not less than 95 per cent of the regular working hours during a continuous 12 month period. In Alberta, Newfoundland, Nova Scotia and Prince Edward Island, the employee must have worked 90 per cent or more of the working time during the year (of the regular working days in the establishment in Alberta and of regular working hours in Newfoundland, Nova Scotia and Prince Edward Island).

Where an employee has worked less than the prescribed working time for a year's continuous service and continues to work for the same employer, he is entitled to a vacation on a pro rata basis in Alberta, and to accrued vacation pay for the period worked during the year in British Columbia, Manitoba, Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island. The vacation pay is payable in New Brunswick and Prince Edward Island not later than the next regular pay period after the end of the vacation pay year; in Manitoba, on the anniversary date of the workman's employment; in Newfoundland, within a week after the anniversary date; and in the other two provinces, within a month after the anniversary date.

The employer may determine the time when each of his employees may take the annual vacation to which he is entitled, within certain limits laid down by law. The vacation must be given in New Brunswick not later than 4 months after June 30; in Manitoba and Saskatchewan within 10 months, and in the federal jurisdiction, British Columbia, Newfoundland, Nova Scotia, Ontario and Prince Edward Island not later than 10 months after the date on which the employee becomes entitled to a vacation; in Québec within 12 months, and in Alberta not later than 12 months after the date of entitlement.

Nine jurisdictions require an employer to give notice to the employee of when his vacation is to begin. The minimum period of notice required is one week in Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island; two weeks in the federal jurisdiction and Saskatchewan; 15 days in Manitoba; and 16 days in Québec. Under the Canada Labour Code, and in Manitoba, Newfoundland and Saskatchewan, another period of notice may be substituted by agreement. In Alberta, the employer must give the employee one week's notice, if agreement cannot be reached regarding the date on which the vacation is to commence.

An employer in a federal undertaking is required to pay his employees their vacation pay during the 14 days before the beginning of the vacation, except in cases where it is impracticable to do so and the custom of the establishment is to pay vacation pay on the regular payday during or immediately following an employee's vacation. Most of the provincial laws require vacation pay to be paid at least one day before the vacation begins. The

Québec order simply states that vacation pay is to be paid before the employee's departure on vacation. In Saskatchewan, an employer must pay an employee his pay during the 14 days immediately preceding the beginning of the vacation.

The Canada Labour Code and several of the provincial laws stipulate that an employee's annual vacation is to be extended by one day in lieu of a general holiday that occurs during the vacation. (In Manitoba, Newfoundland and Saskatchewan, a general holiday is defined as a day for which he is entitled to be paid wages without being present at work). The federal and Saskatchewan laws provide further that for the extra day the employee is to be paid the wages to which he is entitled for the holiday.

Under the Canada Labour Code and all the provincial laws, workers are entitled to vacation pay on termination of employment during the working year. In most jurisdictions vacation pay must be paid immediately on termination of employment. In Ontario and Newfoundland, vacation pay is payable on termination or within one week; in Nova Scotia, within 10 days; in New Brunswick and Prince Edward Island, by the next regular payday following termination of employment and in Saskatchewan within 14 days of termination. In Newfoundland, if the employee is not entitled to an annual vacation he shall receive his pay within two pay periods or one month of his vacation whichever is earlier.

In Alberta, employers in the construction industry must give each employee (except office staff) vacation credits at the end of each regular pay period. The vacation credits (4 per cent of the employee's regular earnings) are to be recorded in the employer's pay roll. The employee must be given the amount of money equivalent to his accrued vacation credits on December 31 or on termination of employment. If he is entitled to an annual vacation, he must be paid his vacation pay the day before his vacation commences.

9. Annual Vacation & Vacation Pay

Jurisdiction	Length of Annual Vacation	Vacation Pay
Federal	2 weeks	4% of annual earnings
Alberta	2 weeks	regular pay
British Columbia	2 weeks	4% of annual earnings
Manitoba	2 weeks; 3 weeks after 5 years' service	regular pay
New Brunswick	2 weeks	4% of annual earnings
Newfoundland	2 weeks	4% of annual earnings
Nova Scotia	2 weeks	4% of annual earnings
Ontario*	1 week; 2 weeks after 2 years' service	2% of annual earnings in first year; 4% of annual earnings after second year
Prince Edward Island	2 weeks	4% of annual earnings
Québec	2 weeks	4% of annual earnings
Saskatchewan**	2 weeks; 3 weeks after 4 years; 4 weeks after 15 years	1/26 of annual earnings in first four years; 3/52 of annual earnings during and after fifth year

* Ontario established new provisions effective January 1, 1974

** Staged reduction to result in 4 weeks after 10 years as of July 1, 1978

GENERAL HOLIDAYS

The federal jurisdiction and five provinces -- Saskatchewan, Alberta, British Columbia, Manitoba and Nova Scotia -- have legislation of broad application dealing with paid general holidays. Ontario has regulated pay for work done on general holidays.*

Federal

Under the Canada Labour Code, Part III, Division IV, eight general holidays in a year are to be observed as paid holidays -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Code provides also that, under certain conditions, an alternative holiday may be substituted for any of the eight holidays specified.

Should a holiday occur on a day on which an employee does not normally work, he must be granted a day off with pay in lieu of the holiday, either at a time convenient to him and his employer or by the addition of a day to his annual vacation.

If Christmas, New Year's Day, Dominion Day or Remembrance Day fall on a Saturday or Sunday that is a non-working day for an employee, he must be given a holiday with pay on the working day immediately before or after the general holiday. These provisions regarding alternative days off do not apply, however, to employees covered by a collective agreement that entitles them to at least eight paid holidays a year.

The Code lays down the general principle that an employee in a federal undertaking who does not work on a holiday is entitled to his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of the wages he would have earned at his regular rate for his normal working day. The regular rate of wages for an employee whose hours of work vary from day to day or who

* Note new provisions effective
January 1, 1974.

is paid other than on an hourly or daily basis is the average of his daily earnings, exclusive of overtime, for the days he worked during the four weeks immediately preceding the holiday, or an amount calculated by the method established by the collective agreement.

An employee in a federal undertaking who is required to work on a general holiday is entitled to his regular wages for the day, and in addition, to time and one-half his regular rate for all time worked. In effect, he is paid two and one-half times his usual rate.

These holiday provisions do not apply to superintendents, managerial employees or members of designated professions.

Different provisions apply to employees employed in continuous operations who are required to work on a holiday. A "continuous operation" is defined to include any industrial establishment in which in each 7-day period operations normally continue without cessation until the end of the regularly scheduled operations for that period; the operation of trains, planes, ships, trucks and other vehicles; telephone, radio, television, telegraph or other communication or broadcasting services; or any other operation normally carried on without regard to Sundays or holidays.

An employee who works on a holiday must be paid his regular wages for the day and must, in addition, be paid time and one-half his regular rate for the time worked. Further, he must be granted a holiday with pay at some other time, either a day added to his annual vacation or another day convenient to him and his employer, or, where a collective agreement so provides, be paid for the holiday on his next non-working day.

There are some situations in which an employee is not entitled to holiday pay. An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment with an employer, but if he is required to work on a holiday he must be paid time and one-half his regular rate. If he is employed in a continuous operation, he may be paid at his regular rate for work done on a holiday.

A further exception is that an employee is not entitled to pay for a general holiday on which he does not work if he is not entitled to wages for at

least 15 days during the 30 calendar days immediately preceding the holiday. An employee in a continuous operation is not entitled to pay for a general holiday if he did not report for work in response to a call from the employer, or if he makes himself unavailable for work in accordance with the conditions of employment prevailing in the establishment in which he works.

A general regulation provides that a longshoreman employed by an employer who is a member of a "multi-employer unit" is entitled to holiday pay if he is entitled to wages for at least 15 days or 120 hours in the 30 calendar days immediately preceding a general holiday. Pay for the holiday may not be less than eight times the employee's basic hourly wage rate.

A longshoreman employed by an employer who is not a member of a "multi-employer unit" must be paid, on each payday, in lieu of general holidays, an amount equal to 3 per cent of his basic wage rate multiplied by the number of hours he has worked for the employer in the pay period.

An employee who is required to work on a general holiday is to be paid at not less than one and one-half times his basic rate of wages for the time worked by him on that day.

Alberta

In Alberta, a general holiday order requires employers to give their employees eight paid holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Crown in right of Alberta and its employees, domestic servants in private homes, farm labourers (other than those in commercial undertakings), municipal policemen and various categories of salesmen are excluded from entitlement to public holidays.

The rule is that if one of the eight general holidays falls on a regular working day for the employee and he does not work on that day, he is entitled to his regular wages for the day.

If the employee is paid by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, the employee must receive the equivalent of his average daily earnings, exclusive of overtime, for his term of employment or for the two months he worked immediately preceding the week in which the holiday occurred.

Where an employee is required to work on a general holiday, he must be paid his regular pay for the day and, in addition, time and a half his normal wages for the time worked. Alternatively, he must be given a holiday with pay at some other time not later than his next annual vacation or on termination of employment, whichever occurs first.

An employee is not entitled to a holiday with pay if he has not worked for his employer for at least 30 days in the preceding 12 months; or if he does not work on the holiday when he has been required or scheduled to do so; or if he is absent without the employer's consent on either of the working days immediately preceding or following the holiday. If such an employee works on a general holiday, he must be paid at least his normal wages for all time worked.

If an employee is not required to work on a general holiday, he must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid his normal wages for the day, in addition to all other wages due him.

Construction workers in Alberta, with the exception of office staff, must be given holiday pay in a lump sum in lieu of being given a holiday with pay on each of eight general holidays.

An employer in the construction industry is required to pay each of his employees a sum equal to 3.2% of his ordinary pay for the period of his employment or the period since he was last paid such sum. Pay in lieu of holidays must be given on December 31 of each year or on termination of employment.

British Columbia

In British Columbia, an order made under the Annual and General Holidays Act provides for eight paid general holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. Another day may be substituted for any of the listed holidays.

The order does not apply to employees covered by a collective agreement under the Labour Relations Act. Also excluded are: farm workers; horticultural workers; domestic servants; professional employees and trainees; salesmen of automobiles and other vehicles, mobile homes and heavy duty industrial equipment; and employees exempted by regulation from the Minimum Wage Act (e.g., supervisory, managerial and confidential employees, policemen, firemen, commercial travellers, watchmen, caretakers, maintenance workers, employees on fishing boats, employees of the Pacific Great Eastern Railway, and handicapped employees.)

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay at some other time not later than his next annual vacation, or the day on which he is required to be paid vacation pay where he has not earned an annual vacation, or on termination of employment, whichever occurs first.

An employee who is not required to work on a general holiday that would otherwise be a working day must be paid his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis he must receive the equivalent of a normal day's pay.

Where an employee's working hours vary from day to day, or where his wages are not calculated on a time basis, his pay for a general holiday is to be deemed to be the average of his daily earnings, exclusive of overtime, for the days he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid at his regular rate for all hours worked, in addition to all other wages due him.

The general rule is that, where an employee is required to work on a holiday, he must be paid not less than time and one-half his regular rate of pay for all hours worked and, in addition, must be given a holiday with pay at some other time not later than his next annual vacation or the day on which he is required to be paid his accrued vacation pay, or on termination of employment, whichever occurs first.

Where an employee employed in a "continuous operation" is required to work on a holiday, he must, in addition to his regular rate of pay for the day, either be paid not less than time and one-half his regular rate for all hours worked or be given a holiday with pay at some other time. A "continuous operation" is defined as an operation or service normally carried on without regard to Sundays or public holidays.

For purposes of these provisions, an employee's "regular rate" is to be deemed to be the average of his hourly earnings, exclusive of overtime, for the hours he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment. An employee is also excluded from holiday benefits if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

Where certain employees of an employer are bound by a collective agreement, and other employees of the same employer are entitled to the general holidays provided for in the order, the employer may, with the approval of the Board of Industrial Relations, substitute a holiday specified in the agreement for a general holiday under the order, so that all his employees will be entitled to a holiday on the same day.

Manitoba

In Manitoba, the Employment Standards Act provides for seven paid general holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. Under certain conditions, another day may be substituted for any of the holidays named in the Act. A special Act deals with the observance of Remembrance Day.

The holiday provisions do not apply to independent contractors; persons employed in agriculture, fishing, fur farming, dairy farming or growing horticultural or market garden products for sale; domestics in private homes; volunteers working in a religious, philanthropic, political or patriotic institution; beneficiaries under a rehabilitation or therapeutic project who are given employment; or students and practitioners of professions governed by statute.

An employee who does not work on a holiday that falls on a regular working day is entitled to be paid at least the equivalent of the wages he would have earned on that day. When an employee's wages vary from day to day, his holiday pay must be at least equivalent to his average daily earnings, exclusive of overtime, for the days he worked during the 30 calendar days preceding the holiday. The holiday pay must be paid whether or not the employee is on the employer's pay roll at the time of the general holiday, unless the employee has voluntarily terminated his employment before that day.

Should a holiday occur on a day that is a non-working day for the employee, he must be granted a day off with pay in lieu of the holiday not later than at the time of his next annual vacation or at a time convenient to him and his employer.

If New Year's Day, Dominion Day or Christmas Day falls on a Saturday or Sunday that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately preceding or following the holiday.

An employer must not require an employee who has not worked on the holiday to work on another day in the holiday week that would otherwise be his day of rest, unless he is paid one and one-half times his regular rate for the work done on that day.

An employee who is required to and does work on a general holiday is entitled to his regular pay for the day and, in addition, to one and one-half times his regular rate for all time worked.

An employee is not entitled to holiday pay in the following situations: if he has not earned wages on at least 15 days during the 30 calendar days immediately

preceding the holiday; if he did not report for work in response to a call from the employer on the day of the general holiday, except where he is dismissed or laid off by his employer or ill; or if he is absent without the employer's consent on the regular working day immediately preceding or following the holiday, unless absent because of established illness. However, an employee who is not entitled to holiday pay for any of the above reasons must be paid at the overtime rate if he works on the holiday.

Employees in the construction industry are entitled to a lump sum in lieu of paid holidays. Each employee must be paid 2 per cent of his total gross wages, exclusive of overtime, for the calendar year. This amount must be paid by December 31 or on termination of employment. Where an employee in the construction industry is required to work on a holiday, he must be paid at one and one-half times his regular rate for the time worked, in addition to the lump sum.

Special provisions are also applicable to employees in a continuously operating plant, seasonal industry (except construction), place of amusement, gasoline service station, hospital, hotel or restaurant, or in domestic service other than in private homes. For these employees, equivalent compensatory time off may be substituted for overtime pay for holidays worked. The time off must be granted within 30 days and the employee must be given at least two days' notice of his day off. At the request of the employee, he and his employer may agree to a later date.

A special Act in Manitoba deals with the observance of Remembrance Day. Work must not be performed on the holiday except in farming, in certain listed essential services, in continuously operating plants, or in emergency circumstances on permit from the Minister of Labour.

An employee who is required to work on Remembrance Day must be paid at least his regular rate of wages and must be granted a day off with pay within 30 days before or after the holiday. In lieu of being given a day off, an employee must be paid twice his regular rate for the time worked. Where an employee is called in to work, he must be paid for the time worked or for not less than half the normal working hours of a regular working day, whichever is greater.

Nova Scotia

The Nova Scotia Labour Code, provides for five paid general holidays -- New Year's Day, Good Friday, Dominion Day, Labour Day and Christmas Day. Under certain conditions, another day may be substituted for any of these holidays.

The holiday provisions do not apply to domestic servants in private homes, professional practitioners and trainees, various categories of salesmen, employees covered by a collective agreement, fishermen, fish packing employees, certain workers in the petro chemical industry, and persons working in specific areas of primary farming.

An employee is entitled to a holiday with pay for each general holiday falling within any period of his employment.

If the employee is hired by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, he must receive the equivalent of the wages he would have earned at the regular rate of wages for his normal working day.

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately following the general holiday, or on the day immediately following his annual vacation or on a day agreed upon by the employee and his employer.

Where an employee is required to work on a holiday he must be paid at a rate equal to one and a half times his regular rate of wages for the time worked by him on that day. Where an employee employed in a "continuous operation" is required to work on a holiday, he must be paid as described above or he may be granted a holiday with pay on the working day immediately following his annual vacation, or on another day agreed upon by the employee and the employer.

An employee is not entitled to a holiday with pay if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday; or if he is absent on either of the working days immediately preceding or following the holiday. (This provision is not applicable if the employer has directed him not to report on either day). An employee in a continuous operation is not entitled to be paid for a general holiday on which he did not report for work after having been called upon to work on that day.

Ontario*

The Ontario Employment Standards Act requires the payment of overtime pay for work done on seven public holidays. The holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. If New Year's Day, Dominion Day or Christmas Day fall on a Sunday, the following day is to be considered a holiday. Where an employee works on any of these holidays he must be paid not less than one and one-half times his regular rate. The employee's regular rate of pay must not be reduced in order to conform with this requirement.

Overtime pay does not have to be paid to an employee who, in the opinion of the Director of Employment Standards, is guaranteed more favourable benefits in respect of work performed on a holiday under an agreement or arrangement with his employer.

Certain categories of workers are excluded from the holiday provisions of the Act. Among these are domestic servants, persons engaged in commercial fishing, professional and managerial employees, farm workers, resident janitors, commission salesmen, taxi drivers, ambulance drivers and their helpers, and "seasonal employees" in the hotel, motel, tourist resort, restaurant and tavern industry (who do not work more than 16 weeks in a year and are provided with room and board).

* New provisions establishing 4 paid holidays - Good Friday, Dominion Day, Labour Day and Christmas Day - became effective January 1, 1974.

Saskatchewan

In Saskatchewan, a minimum wage order requires employees who do not work on any of eight public holidays to be paid their regular pay. For workers in the construction industry and in logging and lumbering, the order provides for payment of a lump sum in lieu of pay for the eight listed holidays. The eight holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day.

When Christmas or New Year's Day falls on Sunday, the following Monday is to be observed as a holiday. When the Monday following Remembrance Day is declared a holiday, it is to be observed as a holiday under the order. By agreement between an employer and a trade union representing a majority of the employees in an appropriate bargaining unit, another working day may be substituted for any of the eight listed holidays. Where workers are not represented by a trade union, the Minister of Labour may by order permit a similar substitution, if he is satisfied that the employer and a majority of the employees are in favour of the change.

The order applies to all employees except managerial employees, employees employed in a family employee undertaking, employees in farming, ranching and market gardening (other than in egg hatcheries, greenhouses, nurseries, and brush clearing operations), and handicapped workers in sheltered workshops.

If required to work on a holiday, employees in almost all workplaces must receive, in addition to their regular pay for the holiday, time and one-half the regular rate for every hour or part of an hour worked; in effect, two and one-half times their regular pay.

A major exception to the above rule is that workers in hotels, restaurants, hospitals, nursing homes and educational institutions who are required to work on a holiday must be paid, in addition to their regular pay, time and one-half the regular rate. In addition to being paid their regular pay, full-time employees may be given time off equivalent to the hours worked on the holiday at regular rates plus one half within four weeks.

Persons engaged in the operation of a well-drilling rig are required to be paid at their regular rate of wages, plus their normal pay for the day, for work performed on a holiday.

The order provides that, where an employee's wages, exclusive of overtime, vary from day to day, pay for a public holiday is to be calculated on the basis of his average daily wage, exclusive of overtime for the four immediately preceding days that bear the same name as the day on which the holiday occurs.

Workers in construction and in logging and lumbering who do not work on any of the eight specified holidays must be given holiday pay in a lump sum in an amount equal to 3 per cent of their gross wages for the calendar year, exclusive of overtime. Payment must be made on December 31 or on termination of employment, whichever occurs first. Where a majority of the employees in an appropriate bargaining unit are represented by a trade union, the union and the employer may, by agreement in writing, elect that the workers be paid regular wages for each holiday, instead of a lump sum payment.

Construction workers who work on the holiday must be paid, in addition to the lump sum payment, wages at the rate of time and one-half their regular rate for all time worked. The latter amount must be paid in the pay period in which it is earned.

Workers in the logging and lumbering industries who work on a public holiday must be paid regular pay for all time worked, in addition to the lump sum payment to which they are entitled.

Other Legislation Dealing With Holidays

Provisions in the minimum wage order of Manitoba deal with the question of pay for public holidays to the extent of prohibiting deductions from the minimum wage for time not worked on a holiday.

Workers are protected against a reduction in the minimum wage for time not worked on a general holiday (as listed above) which falls on a regular working day. Where an employee does not work on a holiday but does work the regularly scheduled hours on the days immediately preceding and following the holiday and on all the other working days in the week, he is to be deemed, for the

purpose of determining the minimum amount of wages to be paid to him for that week, to have worked regular hours on the holiday. An employee does not lose the benefits of this provision through being absent on either the day before or the day after the holiday because of established illness or with the employer's consent.

Under the Municipal Act of British Columbia, shops in all municipalities must be closed on Christmas Day and the day immediately following, New Year's Day, Good Friday, Dominion Day, Victoria Day, Labour Day, Remembrance Day, the Queen's birthday, Thanksgiving Day and any day designated as a provincial or municipal holiday. There is also legislation in Newfoundland requiring shops to be closed on 12 specified public holidays and on one additional holiday fixed by the municipality.

The Québec Commercial Establishments Business Hours Act requires shops to remain closed on New Year's Day, Easter Monday, St. Jean Baptiste Day or the day following if June 24 is a Sunday, Dominion Day or the day following if July 1 is a Sunday, Labour Day, Thanksgiving Day, Christmas Day or any other day fixed by proclamation of the Lieutenant Governor in Council. Shops must not open before 1 p.m. on Boxing Day or on January 2.

Provisions prohibiting work on specified public holidays except with a permit, stipulating that certain holidays must be observed as paid holidays, or requiring the payment of an overtime rate for work done on specified holidays are regular features of the decrees under the Québec Construction Industry Labour Relations Act and Collective Agreement Decrees Act and of industrial standards schedules in Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan. These provisions, while regulating a considerable portion of industry, particularly in Québec, apply only to certain trades and areas in the province concerned. They are not dealt with in this publication.

TERMINATION OF EMPLOYMENT

The federal jurisdiction and eight provinces -- Alberta, Manitoba, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan -- have legislation requiring an employer to give notice to the individual worker whose employment is to be terminated. Five of these provinces place an equal obligation on the employee to give notice to his employer on quitting his job.

In addition, the Parliament of Canada, Manitoba, Nova Scotia, Ontario and Québec require an employer to give advance notice of a projected termination of employment or layoff of a group of employees.

The Canada Labour Code also provides for severance pay for employees with five years' service or more.

In seven jurisdictions the legislation is part of the labour code: the Canada Labour Code, Part III, Divisions V.2, V.3 and V.4; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, Part II; the Nova Scotia Labour Standards Code, sections 68-74; the Prince Edward Island Labour Act, Part II; and the Saskatchewan Labour Standards Act, Part IV. Newfoundland has a separate law, the Employment (Notice of Termination) Act. The provisions in Québec governing individual notice are contained in the Civil Code; notice of group termination requirements are laid down in Section 45 of the Manpower Vocational Training and Qualification Act and a general regulation made under it.

FEDERAL

Individual Notice

Employees who have been continuously employed for three months or more are entitled to two weeks' notice of termination of employment or layoff. Regulations define circumstances in which notice is not required for layoff. In lieu of notice, the employer may pay an amount equivalent to two weeks' wages at the employee's regular rate for his regular hours of work.

The requirement to give notice does not apply to superintendents, managers or members of listed professions, or where an employee is dismissed for just cause.

Where an employee continues to be employed for more than two weeks after the termination date specified in the notice, his employment must not be terminated, except with his written consent, unless notice is given again.

The Code takes into account the bumping provisions that may be contained in collective agreements. Where a collective agreement authorizes that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met either by giving at least two weeks' notice to the union and the employee and posting a copy of the notice in a conspicuous place in the establishment, or by giving pay in lieu of notice to the employee whose employment is actually terminated.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee. During the notice period the employee must be paid his regular wages for his regular hours of work.

Group Notice

The Code also requires that the employer give notice of group dismissals where the employment of 50 or more persons is to be terminated simultaneously or within a four-week period. Regulations may be made providing for advance notice where a lesser number of employees is being dismissed.

For purposes of group dismissals, layoff is equivalent to termination, except in circumstances determined by regulations.

The length of notice period varies according to the number of employees being dismissed:

50 - 100	8 weeks
101 - 300	12 weeks
over 300	16 weeks

Superintendents and managerial employees are to be included in calculating the number of employees being dismissed. Regulations exclude employees from the group notice provisions when they are employed on a seasonal or irregular basis or under an arrangement whereby the employee may choose to work or not when requested to do so.

Advance notice must be given in writing to the Minister of Labour, with copies to the Department of Manpower and Immigration and the trade union. Where there is no union, notice must be given to the employees being dismissed, either in writing or by posting a notice in the establishment.

The notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment is to be terminated. The regulations require that the notice also include the name of the employer and any trade union acting as bargaining agent, the location at which termination is to take place, the nature of the industry, and the reason for termination. In addition, the employer and trade union must provide the Manpower and Immigration Department with whatever information it requests in order to assist the employees. Both are required to co-operate with that Department in order to facilitate the re-employment of the dismissed employees.

The requirement to give group notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employees or the operation of the establishment.

A Canada Labour Standards regulation defines industrial establishment for the purposes of group notice as all branches of an employer's business located in a regional division established under the Unemployment Insurance Act. Schedules outline what constitutes an industrial establishment for the CNR, CPR, Air Canada and CP Air.

Severance Pay

The Canada Labour Code requires an employer to give an employee who has completed five years of continuous employment severance pay upon termination of employment by the employer. The severance pay must be equivalent to two days' wages at his regular rate of wages for his regular hours of work for each completed year of employment that is within the term of his continuous employment by the employer, up to a maximum of 40 days' wages.

The employer is exempt from the severance pay provisions if, either before or immediately upon termination, the employee is entitled to a pension under a pension plan contributed to by the employer and registered in accordance with the Pension Benefits Standards Act. By the same token, the severance pay provisions do not apply if the employee is similarly entitled to a pension under the Old Age Security Act, or to a retirement pension under the Canada Pension Plan or the Québec Pension Plan.

General Provisions

The Canada Labour Code Standards Regulations define circumstances under which layoff is not considered termination of employment for purposes of individual and group notice and severance pay.

Notice is not required where the layoff is the result of a strike or lockout, is for a term of three months or less, or is made pursuant to the provision of a collective agreement that has the effect of regulating the size of the work force.

In certain circumstances, a layoff of more than three months also does not constitute termination: where the employer notifies the employee that he will be recalled on a fixed date or within a fixed period of up to six months and the employee is actually so recalled; or where, during lay-off, the employee continues to receive payments from the employer in amounts mutually agreed upon, the employer continues to make payments to a pension plan, or the employee receives supplementary employment benefits or is entitled to do so.

Continuity for the purposes of group and individual termination, severance pay and maternity leave is not to be broken where an employee is absent from work because of a lay-off that does not constitute termination or where the absence is permitted or condoned by the employer.

ALBERTA

Individual Notice

The Board of Industrial Relations may establish, by order, requirements for notice of individual termination. The minimum requirements are:

3 months but less than 2 years	7 days
2 years or more . .	14 days

The Board may also make orders requiring payment in lieu of notice of termination; specifying where notice of termination is not required; exempting any class of employers or employees from the application of termination orders; prescribing how notice of termination is to be given and its form and content; and defining "termination" and "period" of employment.

These requirements do not apply to an employer and his employees where there is a custom, practice or agreement providing for a longer notice or upon payment of a greater sum of money in lieu of notice of termination of employment.

Neither these provisions nor any order of the Board affect the right of an employee at common law to be paid, or the duty imposed upon an employer to provide longer notice or a greater sum of money in lieu of termination of employment than that specified in an order of the Board.

MANITOBA

Individual Notice

In Manitoba, an employer or employee in any work or occupation, except farming, must give notice of termination of employment and, except in the case of a person paid less frequently than once a month, the period of notice required is one regular pay period. If the employees are paid less often than once a month, reasonable notice must be given. Notice of termination is not required if an employee is hired for a fixed period unless the employment is, by mutual agreement, continued after the end of the period. Notice is also not required if the employment of an individual is terminated due to violent or improper conduct.

The requirements for giving notice do not apply if a general custom or practice prevails in an industry which is contrary to the terms of the Act or where different conditions concerning notice are established by collective agreement. If employment is terminated during an employee's first two weeks in a job, notice is not required unless the employer and employee have agreed in writing that the requirements of the Act will apply.

An employer is permitted to establish a practice whereby employment may be terminated with a shorter period of notice than that provided for in the Act, and the practice is considered to have been established one month after he has notified each of his employees in writing of the practice and has posted a notice setting out the terms of the practice. Each new employee must be informed of the practice by written notice at the time employment begins.

Complaints of failure to give the required notice may be made in writing to the Minister of Labour within a period of 90 days after employment is terminated. The Minister may himself inquire into it or may refer it to the board for investigation. A procedure is laid down in the Act for the settlement of such complaints.

Group Notice

Manitoba requires that advance notice of group dismissals where 50 or more employees are to be dismissed within a period of 4 weeks be given in writing to the Minister of Labour. Copies must be sent to the certified

or recognized union. Where there is no union, the notice must be given to the employees being dismissed either in writing or by posting a notice in the establishment. The written notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment will be terminated. Regulations may require that the notice include additional information. In addition, there must be co-operation with the Minister to re-establish the employment of the dismissed employees.

The notice period varies with the number of employees to be dismissed:

50 - 100	8 weeks
101 - 300	12 weeks
over 300	16 weeks

Notice for group termination does not apply when the employees are: employed for a definite term or task of 12 months or less; laid off according to regulations*, or after refusing reasonable alternate work offered by the employer or by a seniority system; laid off and do not return to work within a reasonable time after being requested to do so by their employer; on strike or locked out; employed in the construction industry; guilty of wilful misconduct, disobedience or neglect of duty; employed under contract that is or has become impossible to perform or is frustrated by a fortuitous or unforeseeable event; employed under an arrangement whereby they may elect to work or not to work for a temporary period; or at the age of retirement according to the established practice of the employer. The Minister may, by order, make exemptions from the provisions of the Act dealing with group termination if the application of the provisions is unduly prejudicial to the interests of the employees or employer or if it would be seriously detrimental to the industrial establishment.

* A layoff is not considered a termination of employment where (1) the industry is seasonal in nature; or (2) the employee is laid off for a reasonable period, then recalled; or (3) in a non-seasonal industry, the layoff is of reasonable length, the employee is told the date on which he is to be recalled, and he is recalled on or before that date.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee or if there is a collective agreement in force which authorizes changes or variations.

The employer may terminate the employment of an employee without notice if he notifies the employee in writing to this effect and pays him the equivalent of the wages he would have earned for working regular hours during the notice period as well as any unpaid vacation pay to which the employee is entitled.

Any employee who wishes to terminate his employment prior to the expiration of the period of notice must give written notice of such action to his employer.

The employer and the trade union representing the employees affected by the termination must co-operate with the Minister in any action or program aimed at facilitating the re-establishment in employment of the employees involved.

The requirement to give notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employer, employees or the operation of the establishment.

NEWFOUNDLAND*

In Newfoundland, both the employer and the employee are required to give notice of termination of employment. Where an employee is paid once a month or more often, the required period of notice is one regular pay period. Where the employee is paid less often, reasonable notice must be given. In lieu of notice, an employer may pay an employee the normal wages, exclusive of overtime, that he would have earned during the period of notice.

*

In Newfoundland, The Termination of Employment Act, 1973, S.N. 1973, Act No. 19, assented to March 29, 1973, was not proclaimed in force as of December 31, 1973, thus it is not reported in this issue of Labour Standards in Canada.

Notice of termination is not required where employment is interrupted by a strike or lockout, or during the first month of employment, or where the employee is hired for a fixed period or for the performance of specified work, unless by mutual agreement the work is continued after the end of the period or the completion of the work.

The requirements of the Act regarding the period of notice do not apply where a different period is established in a collective agreement, or in a written agreement of employment between the employer and employee, if the notice period is of equal length for both parties. Further, a well-established general custom or practice in any industry respecting the period of notice may be continued, in lieu of the period of notice provided for in the Act.

All employers and employees within the jurisdiction of the province are covered by the Act. Regulations may be made exempting any industry or class of persons from coverage.

NOVA SCOTIA

Individual Notice

In Nova Scotia, the Code forbids an employer to discharge or lay off an employee who has been employed for 3 months or more without first giving him written notice in case of either individual or group termination.

In cases of individual termination, the notice period varies with the length of service:

less than	
2 years	1 week
2-5 years . . .	2 weeks
5-10 years . .	4 weeks
10 years	
or more	8 weeks

Group Notice

Notice of group termination must be given to each employee affected where 10 or more employees are to be discharged or laid off within a period of 4 weeks or less. The Minister of Labour must be informed in writing of any group notice. The notice period varies with the number of employees being dismissed.

10- 99	8 weeks
100-299	12 weeks
300 or more . .	16 weeks

General Provisions

An employee employed for 3 months or more must also give his employer notice before quitting his job unless the employer has been guilty of a breach of the terms and conditions of employment. The notice period depends upon the length of employment:

3 months	
- 2 years . . .	1 week
2 years	
or more	2 weeks

Where a person continues to be employed after the expiry of the notice for a period exceeding the length of notice, he must be given notice again before his employment may be terminated.

Successive periods of employment may be accumulated unless there has been a break of more than 13 weeks in employment, in which case the last period of employment is counted.

An employer must not alter wages and conditions of employment once notice is given, whether by the employer or employee, and must, upon the expiry of the notice, pay the employee all pay to which he is entitled.

Notice may be made conditional upon the happening of a future event if the required notice period is observed.

An employer may terminate an employee's employment immediately upon giving notice if he gives the employee pay in lieu of notice. This pay must be equivalent to the amount the employee would have earned at his regular rate in a normal, non-overtime work-week during the required notice period.

As already mentioned, notice is required in case of lay off. The requirement does not apply where a person is laid off for 6 consecutive days or less or in circumstances defined by regulations. An employee who is not entitled to notice because of the duration of his lay off and whose employment is subsequently terminated (by continued lay off or otherwise) must be given pay in lieu of notice as if his employment had been terminated without notice when he was first laid off.

The requirement to give notice does not apply where the employee has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer.

Persons employed for a definite term or task for a period of 12 months or less are not entitled to notice. However, if the person continues to be employed for 3 months or more after the completion of his term or task, he is to be considered a regular employee and therefore entitled to notice. His period of employment is deemed to begin at the commencement of the term or task.

In addition, persons discharged or laid off for any reason beyond the control of the employer are not entitled to notice if the employer has exercised due diligence to foresee and avoid the cause. Among these reasons are labour disputes, destruction of plant or machinery, unavailability of materials, cancellation or lack of orders, and actions of government authority.

Excluded also are persons who have been offered reasonable alternate employment by the employer or who have reached retirement age according to the established practice of the employer. Employees in the construction industry are excluded from the requirement both to receive and to give notice. Furthermore, regulations may exempt persons employed in any activity, business, work, trade, occupational profession or any part of these.

The length of notice does not include any week of vacation unless the employee agrees to take his vacation during the notice period.

ONTARIO

Individual Notice

In Ontario, an employer is required to give notice in writing to an employee whose employment is to be terminated, provided the employee has completed three months' service or more. The length of notice varies with the period of employment, as follows:

3 months to 2 years	1 week
2 to 5 years	2 weeks
5 to 10 years.	4 weeks
10 years or more	8 weeks

A period of employment constitutes the period between the time employment first began and the time that notice was or should have been given. Successive periods of employment may be accumulated, unless there has been a break of more than 13 weeks in employment. In such a case, the period of last employment constitutes the length of service for purposes of the notice.

Group Notice

The group notice requirement applies when an employer plans to terminate the employment of 50 or more persons within four weeks or less. The length of notice is related to the number of workers involved. The minimum written notice that must be given by the employer to the employee and to the Minister of Labour is:

50-199	8 weeks
200-499	12 weeks
500 or more	16 weeks

Where not more than 10 per cent of the persons employed in an establishment are to be dismissed in a four-week period, and these total 50 or more persons, the requirement for notice in the case of individual dismissal applies, unless the termination is caused by the permanent discontinuance of all or part of the employer's business.

Persons who have been employed for less than three months are not to be counted in determining the number employed in an establishment and are not entitled to notice.

In the case of a collective dismissal, the employer is required to co-operate with the Minister during the period of notice in any action or program designed to re-establish the dismissed workers in employment.

Employees who have received notice of a collective termination of employment are required to give written notice to their employer that they intend to quit their jobs. One week's notice is obligatory for an employee who has worked for the employer for less than two years, and two weeks' notice for one who has been employed for two years or more.

General Provisions

A number of provisions are applicable to both individual and group notice.

Where notice is given, employment must continue until the notice has expired. The length of notice may not include any week of vacation, unless the person, after receiving the notice, agrees to take his vacation during the notice period. Where a person continues to be employed after the expiry of the notice for a period exceeding the length of the notice, he must again be given notice before his employment may be terminated.

Under the legislation, the employer is required to give the prescribed notice or to pay the wage or salary equivalent. The employer terminating the employment of an employee without notice must notify him in writing to this effect and pay him the equivalent of the wages he would have earned for working regular hours during the notice period. Compensation payable in lieu of notice is deemed wages for purposes of the Act.

The employer is forbidden to alter the wage rate or any other term or condition of employment of a person to whom notice has been given, and upon the expiry of the notice must pay him the wages and vacation pay to which he is entitled.

The Act covers layoffs other than "temporary layoffs", as defined. Notice of indefinite layoff is deemed to be notice of termination of employment.

A "temporary layoff" is defined as: (1) a layoff of not more than 13 weeks in any period of 20 consecutive weeks; (2) a layoff of more than 13 weeks where (a) the person continues to receive payments from the employer, (b) the employer continues to make payments for the benefit of the person laid off under a bona fide retirement or pension plan or under a bona fide group or employee insurance plan, (c) the person laid off receives supplementary unemployment benefits, or (d) he is entitled to receive supplementary unemployment benefits, but does not receive them because he is employed elsewhere during the layoff; or (3) a layoff of more than 13 weeks where the employer recalls the person within the time fixed by the Director of Employment Standards.

The notice provisions do not apply to a person who is laid off or whose employment is terminated during or as a result of a strike or lockout at his place of work or who has been employed for less than three months. Also exempted from the requirement to receive notice are: (1) a person who is laid off after (a) refusing an offer by his employer of reasonable alternate work or (b) refusing alternate work made available to him through a seniority system; (2) a person on layoff who does not return to work within a reasonable time after being requested to do so by his employer; (3) a person employed under an arrangement such that he may elect to work or not for a temporary period when requested to do so; and (4) a person who has reached the age of retirement according to the established practice of the employer.

An employer is not required to give notice to a person employed for a definite term or task. Where, however, a term or task exceeds a period of 12 months or the person continues to be employed for three months or more after completion of the term or task, the notice provisions apply.

A person who has been guilty of wilful misconduct, disobedience or wilful neglect of duty that has not been condoned by the employer is not entitled to notice, and notice is not required where a contract of employment becomes impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance.

Any notice of termination may be made conditional upon the happening of a future event.

An employee may terminate his employment forthwith upon notice if his employer has been guilty of a breach of the terms and conditions of employment.

The construction industry has been exempted from the requirement to give notice. Other employers are covered, including the Crown and its agencies. Those entitled to notice include professional employees, teachers, commercial fishermen, domestic servants, farm workers and salesmen.

The regulations take into account the bumping provisions that may be permitted by the terms of employment. Where the terms of employment authorize that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met by posting a notice containing the salient facts in a conspicuous place in the establishment.

PRINCE EDWARD ISLAND AND SASKATCHEWAN

In Prince Edward Island and Saskatchewan an employer is forbidden to discharge or lay off an employee who has been in his service continuously for three months or more without giving him at least one week's written notice.

"Layoff" is defined in Saskatchewan as the temporary termination of an employee's service for a period of more than 6 days.

In both provinces, on termination the employee is entitled to his actual earnings during the week or his normal wages for one week, exclusive of overtime, whichever amount is greater. If notice is not given,

the employee is entitled to his normal wages for one week, exclusive of overtime. In Saskatchewan, an employee must receive full pay from his employer within 14 days after the day on which his termination becomes effective. Where an employee's wages vary from week to week, in Saskatchewan, his normal weekly wage is to be obtained by averaging his earnings, exclusive of overtime, for the four-week period immediately preceding the date on which notice was given or, if no notice was given, the date of discharge or layoff.

In Saskatchewan, the employer shall within 14 days, pay to the employee, in addition to all amounts due to him, his average wage for his period of employment with the employer. However, if the employee has at any time been entitled to take an annual holiday under any Act, custom or agreement or under his contract of service, the employer shall within 14 days pay the employee, in addition to all other amounts due to him, his average wage for his period of employment between the dates on which he became entitled to the last annual holiday that he was entitled to take and the date of the termination of employment.

The Prince Edward Island Act also requires an employee with three months' service or more to give his employer at least one week's notice of his intention to terminate his employment.

The requirement to give notice applies to all employees and their employers except farm workers in both provinces and domestic servants in Prince Edward Island. Saskatchewan also excludes ranching, certain handicapped persons, market gardening and employees employed in family undertakings, and Prince Edward Island excludes construction, tourist establishments operating less than six months in a year, and students employed during the period May 1 to October 1.

In certain circumstances notice is not required; namely, discharge for just cause other than shortage of work in Saskatchewan and just cause including shortage of work in Prince Edward Island.

QUEBEC

Individual Notice

In Québec, Section 1668 of the Civil Code requires a domestic, servant, journeyman or labourer engaged by the week, month or year to give one week's notice of termination of employment if hired by the week, two weeks' notice if by the month, and a month's notice if by the year. The employer must give similar notice where an employee's services are no longer required.

Some decrees under the Québec Collective Agreement Decrees Act also require the giving of notice of termination of employment.

Group Notice

Under section 45 of the Manpower Vocational Training and Qualification Act, an employer who, for technological or economic reasons, contemplates the dismissal of 10 or more employees within a period of two months is required to give advance notice to the Minister of Labour and Manpower. The minimum periods of notice required, varying with the number of workers to be dismissed, are:

10 to 99	2 months
100 to 299	3 months
300 and over	4 months

"Employee" does not include a seasonal or casual worker or a director or officer of a corporation.

The requirement to give notice does not apply to an employer in the construction industry or to an employer carrying on an undertaking of a seasonal or intermittent nature. The legislation does not apply to an establishment involved in a strike or lockout.

Layoffs are included in the term "dismissal" but the employer does not have to give notice if he lays off employees for an indefinite period of time, unless the layoff will continue for more than six months.

Where a fortuitous or unforeseeable event prevents an employer from giving notice, he must inform the Minister as soon as he is in a position to do so and furnish proof that he was unable to comply with the law. The Minister will then determine, in consultation with the employer, the period of notice that must be given.

The notice, which must be mailed by the employer to the Manpower Branch of the Department, and which becomes effective on the date of mailing, is to contain: (a) name and address of the employer or establishment; (b) nature of the principal product or service; (c) names and addresses of associations of employees (unions); (d) reasons for the collective dismissal; (e) date on which the collective dismissal will be made; and (f) full name of each employee likely to be dismissed.

The legislation also requires the employer, at the request of the Minister, to participate immediately in the establishment of a reclassification committee, whose task is to study and recommend practical measures for the re-establishment of the dismissed employees. The certified trade union or the employees, if there is no union, must be equally represented on the committee. The employer must contribute funds to the committee to the extent agreed upon by the parties. The Manpower Branch of the Department is responsible for the establishment and functioning of such committees.

The parties may, with the Minister's consent and subject to conditions laid down by him, establish a reclassification fund. If necessary, several employers and several certified trade unions may establish a joint fund.

10. Notice of Individual Termination

Jurisdiction	Notice Required	Application
Federal	2 weeks	Employers in federal industries Exclusions: employed less than 3 months, superintendents, managers, members of professions
Alberta	3 months but less than 2 years: 7 days 2 years or more: 14 days	Employers and employees Exclusions: where there is a custom, practice or agreement providing for (a) a longer notice of termination of employment, or (b) the payment of a greater sum of money in lieu of notice of termination of employment
Manitoba	Pay period	Employers and employees Exclusion: employed less than 2 weeks, farm workers
Newfoundland	Pay period	Employers and employees Exclusion: employed less than 1 month
Nova Scotia	Employed less than 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: 8 weeks	Employers (employees different) Exclusion: employed less than 3 months, construction industry

Jurisdiction	Notice Required	Application
Ontario	Employed less than 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: 8 weeks	Employers (special provisions for employees under notice of mass layoff) Exclusion: employed less than 3 months, construction
Prince Edward Island	1 week	Employers and employees Exclusion: employed less than 3 months, farm workers, construction
Québec	Hired by week: 1 week Hired by month: 2 weeks Hired by year: 1 month	Listed employees and their employers: domestics, servants, journeymen labourers
Saskatchewan	1 week	Employers Exclusion: employed less than 3 months, farming, ranching, market gardening

11. Notice of Group Termination

Jurisdiction	Number of Employees	Notice Required
Federal	50 -100	8 weeks
	101 -300	12 weeks
	over 300	16 weeks
Manitoba	50 -100	8 weeks
	101 -300	12 weeks
	over 300	16 weeks
Nova Scotia	10 -99	8 weeks
	100 -299	12 weeks
	300 or more	16 weeks
Ontario	50 -199	8 weeks
	200 -499	12 weeks
	500 or more	16 weeks
Québec	10 -99	2 months
	100 -299	3 months
	300 or more	4 months

MATERNITY PROTECTION

Legislation to ensure the health and job security of women working before and after childbirth is in force in the federal jurisdiction and in British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan.

The federal maternity leave provisions are contained in the Canada Labour Code, Part III, Division V.1. British Columbia has a special law on the subject, the Maternity Protection Act. The Manitoba provisions are contained in subsection 34.1. of the Employment Standards Act. The New Brunswick provisions are Sections 11-13 of the Minimum Employment Standards Act, a law which regulates various conditions of employment. Nova Scotia's maternity protection provisions are contained in Sections 56 and 57 of the Labour Standards Code. The Ontario maternity protection provisions form Part II-A of the Employment Standards Act. Saskatchewan's provisions are contained in Part VA of the Labour Standards Act, 1969.

The Canada Labour Code states that a woman who has been continuously employed by her employer for at least one year is entitled to 17 weeks of maternity leave. Employment is deemed continuous where a business is sold or otherwise transferred to a new employer. The employee must make application at least four weeks before her leave is to begin and she must also submit a certificate from a qualified medical practitioner specifying the estimated date of delivery.

The 17 weeks of maternity leave is made up of 11 weeks' voluntary prenatal leave, which is to be extended to the actual date of delivery, and six weeks' compulsory postnatal leave. The postnatal leave may be shortened by mutual agreement of the employer and employee, if the woman submits a medical certificate certifying that the resumption of employment at the earlier time will not endanger her health.

Provision is also made for up to 11 weeks of prenatal leave in special cases where a woman has not submitted an application as required by the Code. The employee must present her employer with a medical

certificate specifying the probable date of delivery and certifying that during her period of leave she was incapable of performing her normal duties because of a condition arising out of her pregnancy that was not anticipated by the physician.

Job security is guaranteed by prohibiting dismissal or layoff of an employee who is entitled to maternity leave solely because she is pregnant or because she has applied for maternity leave. An employee who resumes work after leave must be reinstated in the position she occupied before her leave began or in a comparable position with not less than the same wages and benefits. Maternity leave is not to interrupt continuity of employment for purposes of calculating pension or other benefits.

In Ontario, Manitoba, Nova Scotia and Saskatchewan, an employee must have worked continuously for her employer for at least one year in order to be eligible for maternity leave benefits.

Nova Scotia and Manitoba provide for 17 weeks of maternity leave consisting of 11 weeks' voluntary prenatal leave and six weeks' compulsory postnatal leave. British Columbia, New Brunswick and Ontario provide for 12 weeks' of maternity leave, six weeks before and six weeks after childbirth, with the postnatal leave being compulsory. Saskatchewan provides for 18 weeks of maternity leave, 12 weeks before and a compulsory period of six weeks after. On production of a medical certificate showing the expected date of confinement, the employee must be granted a period of leave of up to six or 12 weeks, depending on the province, preceding the specified date. In Saskatchewan, the employee may be granted the prenatal leave without application if she has bona fide medical reasons to cease work immediately and in Manitoba upon production of a medical certificate indicating the probable date of delivery and certifying that she is incapable of performing her duties because of a condition arising out of her pregnancy that was not expected by the physician. The Ontario, Manitoba, Nova Scotia and Saskatchewan Acts stipulate that the period of voluntary leave is to extend to the actual date of delivery.

In Ontario, Nova Scotia and Saskatchewan the employer has the right to require the employee to commence her leave at any time (in Saskatchewan up to a maximum of three months), if the duties of her position cannot

reasonably be performed by a pregnant woman or if her performance is materially affected by the pregnancy. The employee must produce a doctor's certificate when required to do so by the employer.

The British Columbia and New Brunswick Acts forbid the employer to permit an employee to work during the six-week period following childbirth or during a longer period than six weeks, if recommended in a medical certificate. In Saskatchewan, a further six weeks may be granted the employee upon production of a medical certificate giving bona fide reasons why the employee is unable to return to work. The Manitoba, Nova Scotia and Ontario laws do not provide for extension of the postnatal leave on medical grounds. In Manitoba, Nova Scotia, Ontario and Saskatchewan the obligation is on both the employee and the employer to observe the six weeks' compulsory leave, unless a shorter period is agreed upon by both parties and is supplemented by the recommendation in writing by a medical practitioner.

In all six provinces, the right to maternity leave is supplemented by a guarantee that an employee will not lose her employment because of her absence on maternity leave. In Manitoba, Nova Scotia, Ontario and Saskatchewan a woman with a minimum of one year's service is protected against dismissal throughout pregnancy. In British Columbia and New Brunswick, an employer is forbidden to give notice of dismissal and to dismiss an employee for reasons arising out of absence on maternity leave during a period of 16 weeks. In Manitoba, an employer is not required to reinstate an employee when she has remained absent from work for a period of more than ten weeks following the actual date of delivery. The maximum amount of leave to which an employee is entitled in Saskatchewan must not exceed 18 weeks.

In Nova Scotia, Ontario and Saskatchewan, the employer is required to permit the employee to resume work with no loss of seniority or accrued benefits. In Manitoba, for the purpose of calculating pension and other benefits employment after the termination of maternity leave is to be considered as continuous with employment before commencement of the leave.

Under a provision of the Alberta Labour Act, the Board of Industrial Relations has authority to regulate and prohibit the employment of women during and following pregnancy. The Board has not exercised this authority.

In Nova Scotia, certain employers may be exempted from the maternity protection provisions by regulation. In British Columbia, Manitoba, New Brunswick, Nova Scotia and Saskatchewan the provisions apply to employers with one or more employees whereas in Ontario, they only apply to those having twenty-five or more employees.

LABOUR STANDARDS IN THE YUKON AND NORTHWEST TERRITORIES

Labour standards legislation has been enacted by the Territorial Councils of the Yukon and Northwest Territories in most of the fields of legislation covered by this publication. Labour Standards Ordinances, modelled on the Canada Labour Code, Part III (Labour Standards), with modifications to meet the particular requirements of the Territories, went into force July 1, 1968. The Ordinances established minimum standards of hours of work, wages, annual vacations and general holidays for employees in the Territories. Previous to the enactment of the Northwest Territories Ordinance, the only labour standards applicable were those established by mines legislation. Standards in the Yukon Ordinance replaced those previously laid down in the Yukon Labour (Minimum Wages) Ordinance, the Labour Provisions Ordinance and the Annual Vacations Ordinance.

The Commissioner of each Territory is to administer the Ordinance, with the advice and assistance of an Advisory Board, consisting of a chairman, an employers' representative and an employees' representative. Provision was made for the appointment of a Labour Standards Officer to administer the Ordinance, under the Commissioner's direction, and for the appointment of inspectors.

The Ordinances apply to employers and employees in any work, undertaking or business of a local or private nature in the Territory. The Northwest Territories Ordinance excludes domestic servants in private homes, trappers, persons engaged in commercial fisheries, and managers or superintendents or persons who exercise management functions. Members or students of designated professions may be excluded by regulations. The Yukon Ordinance applies generally but certain classes of employees are excluded from Part I governing hours of work.

Statutory School-Leaving Age

In both Territories, a School Ordinance provides for compulsory school attendance to the age of 15. In the Northwest Territories, if a child reaches his 15th birthday after December 31, he must attend to the end of the school year. As in the provinces, a child may be exempted from school attendance if he is under instruction in some other satisfactory manner, if he is prevented from attending

school for any unavoidable cause, or if he has reached a standard of education equal to or higher than that to be attained in the school. In the Northwest Territories, a child may be allowed to leave school before the statutory school-leaving age if he has completed Grade VIII or its equivalent. An exception is also permitted in the Northwest Territories in the case of a child who is unable to attend because of distance from school or lack of school accommodation.

Minimum Age for Employment

Under a Mining Safety Ordinance in each Territory, the minimum age for employment underground or at the working face of any open cut workings, pit or quarry is 18 years. The minimum age for employment in or about a mine is 16 years.

Under the Labour Standards Ordinances of the Yukon, regulations may be made laying down conditions under which young persons under the age of 17 years may be employed. In the Northwest Territories, a person under the age of 17 may be employed in any occupation except in such occupations and subject to such conditions as are prescribed by regulation.

Minimum Wages

Both Ordinances require the payment of a minimum rate of wages to employees who are 17 years of age and over of \$2.00 an hour.

Where employees are paid on a basis other than time, or on a combined basis of time and some other basis, they are required to receive the equivalent of the minimum wage.

In the Northwest Territories and the Yukon, Labour Standards Regulations were issued under the Labour Standards Ordinance. Under a Northwest Territories Regulation, an employee who is required to report for work must be paid a minimum of 4 hours' pay at his regular rate. In both Territories, the maximum deductions that may be made for board and lodging are 50 cents a meal and 60 cents a day for lodging. However, only the Northwest Territories stipulates that an employee's wages must not be reduced below the minimum wage for meals supplied; the furnishing and upkeep of uniforms; or for accidental breakages.

Hours of Work

The Mining Safety Ordinances of both Territories provide for a maximum eight-hour day for work below ground in mines.

Under the Labour Standards Ordinance of the Northwest Territories, standard hours of work are 8 in a day and 48 in a week for most employees. Except in special circumstances, maximum hours are 10 in a day and 60 in a week.

Different standards are laid down for certain classes of employees. Standard hours of 208 in a month have been established for persons employed in exploration and development of metal mining and petroleum (including geophysical, geological, seismological and diamond drilling work), the transport of goods to and from isolated areas, and in tourist camps. For these employees, maximum hours are 260 in a month.

In the Yukon Territory, standard hours are 8 in a day and 48 in a week except for employees in shops, for whom standard hours of 8 in a day and 44 in a week are established. "Shop" is defined as an establishment where wholesale or retail trade is carried on or where services are dispensed to the public for profit. Maximum hours of work permitted are 10 in a day, 60 in a week and 260 in a month. Overtime beyond the limits of 8 and 48 hours is prohibited for employees engaged in mining operations underground in a shaft or tunnel.

In all cases where an employee is required or permitted to work in excess of standard hours, he must be paid one and one-half times his regular rate.

Averaging of hours over a period of two or more weeks is permitted under both Ordinances. The manner and circumstances in which averaging may be allowed are to be prescribed by regulations.

Exceptions from maximum hours are permitted in certain circumstances. Where work in an industrial establishment is seasonal or intermittent in nature, the Commissioner, after having considered the nature of the establishment, the conditions of employment and the welfare of the employees, may issue an order permitting excess hours to be worked.

In the Northwest Territories, hours in excess of maximum hours (10 and 60 or 260, as the case may be) may be worked with a permit issued by the Labour Standards Officer, when the applicant has satisfied him that there are exceptional circumstances to justify the working of additional hours.

Under both Ordinances, maximum hours may be exceeded in an emergency due to an accident, breakdown in machinery or other unpreventable circumstances. Details of such emergency work must be reported (in the Yukon, only upon request).

The hours of work provisions of the Yukon Ordinance do not apply to members of the employer's family, individuals who search for minerals, travelling salesmen, domestic servants, farm labourers, and supervisory and managerial employees. Members and students of professions and other persons or classes of persons may be excluded by regulations.

Persons employed as hunting or fishing guides are exempted from the hours of work provisions of the Northwest Territories Ordinance.

Weekly Rest-Day

Both Ordinances provide that, unless an exception is made by regulations, employees must be given at least one full day of rest in each week, and that the normal day of rest must be Sunday wherever practicable.

Annual Vacations with Pay

Under both Ordinances, employers are required to give their employees an annual vacation with pay of at least two weeks in respect of every completed year of employment.

A "year of employment" is defined as continuous employment of an employee by one employer for a period of 12 consecutive months beginning with the date employment began or any subsequent anniversary date.

Vacation pay is four per cent of the employee's wages for the year of employment in respect of which he is entitled to a vacation. The vacation must be granted not later than 10 months after the date on which the

employee becomes entitled to it. Vacation pay must be given at least one day before the vacation is to begin or at an earlier date, if the regulations so prescribe.

The Yukon Ordinance provides that, if a general holiday occurs during an employee's vacation, the vacation is to be extended by one day in lieu of the holiday, and that the employee must be paid the wages to which he is entitled for the holiday, in addition to his vacation pay. The Northwest Territories Ordinance states that, where a general holiday occurs during an employee's vacation, the vacation is not to be extended, and no additional holiday or wages must be given to the employee.

When employment is terminated during a year, the employee is entitled to any vacation pay owing to him in respect of a previous completed year of employment and to four per cent of his wages for the period he has worked during the year. An employee is not entitled to vacation pay, however, unless he has been continuously employed for 30 days or more.

When a business changes hands, an employee is considered to have been in continuous employment before and after the transfer.

The Yukon Ordinance excludes from its annual vacation provisions employees who are members of the employer's family.

General Holidays

In both Territories, employees are entitled to a holiday with pay in respect of each of the general holidays listed in the Ordinance. Both Ordinances provide for the same eight general holidays as are named in the federal Code but in the Yukon Ordinance a ninth holiday, Discovery Day, is provided for. Another holiday may be substituted for any of the listed holidays.

The Yukon Ordinance states that, where a general holiday falls on a Sunday, the Monday following is to be a holiday with pay.

The Labour Standards Officer may allow another holiday with pay to be substituted for a general holiday if another holiday is specified in a collective agreement or, where there is no collective agreement, if an employer applies for a substitution and the majority of the employees agree.

In the Northwest Territories, an employee is entitled to a holiday with pay only when a general holiday falls on a regular working day.

In the Northwest Territories, if an employee is required to work on a holiday, he must be paid his regular pay for the day and must, in addition, be paid at his regular rate of wages for the hours worked or he must be given a holiday with pay at a time convenient to him and his employer, not later than his next annual vacation or on termination of employment, whichever occurs first.

The Yukon Ordinance follows the Canada Labour Code, Part III, (Labour Standards), in requiring, for work done on a holiday, payment of regular pay plus wages at the rate of time and one-half for the hours worked. This provision does not apply to custodial work or essential services as prescribed by regulations. A person employed in any such employment must be granted a holiday with pay at another time in lieu of a holiday on which he was required to work.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a non-working day, unless he is paid at least double his regular rate of wages in the Northwest Territories, or at least one and one-half times his regular rate of wages in the Yukon, for the time worked by him on that day.

The circumstances under which payment of holiday pay is not required differ in the Ordinances.

In the Yukon, an employee is not entitled to pay in respect of a holiday on which he does not work (a) if the holiday occurs in his first 30 days of employment with an employer, or (b) if he is not entitled to wages for at least 15 days in the 30 calendar days immediately preceding the holiday, or (c) if he has not worked an average of 24 hours a week during the four-week period immediately preceding the week in which the holiday falls (excluding any period of annual vacation), or (d) if he did not report for work on the holiday after having been called to work, or (e) if, without his employer's consent, he did not report for work on either the day preceding or the day following the holiday.

Under the Northwest Territories Ordinance, an employee is not entitled to be paid for a holiday if he

has not worked for his employer for at least 30 days in the preceding 12 months. Other exceptions are the same as in (d) and (e) above.

Equal Pay

The Northwest Territories Fair Practices Ordinance, which is a human rights code, also provides for equal pay for equal work. An employer is forbidden to pay a female employee at a lesser rate than the rate paid to a male employee for the same work done in the same establishment. A difference in rates based on a factor other than sex does not constitute discrimination.

This prohibition does not apply to employers who employ fewer than 5 employees, to domestic employment, or to non-profit charitable, philanthropic, educational, fraternal, religious or social organizations or those operated primarily to foster the welfare of a religious or racial group.

Enforcement is initiated by complaint of the aggrieved person to the officer appointed by the Commissioner of the Northwest Territories to deal with such matters. The Commissioner may then appoint an officer to inquire into the complaint. If settlement is not reached through conciliation, the officer must recommend to the Commissioner the action that should be taken with respect to the complaint. The Commissioner may issue whatever order he thinks necessary to put the recommendations into effect. A person affected by the order may appeal it within 10 days to a judge of the Territorial Court, whose decision is final.

In the Yukon Territory, sections of the Labour Standards Ordinance prohibit an employer from paying a female employee at a lesser rate of pay than that paid to a male employee or vice versa for "the same work performed under similar working conditions" except where such payment is made pursuant to a seniority system; a merit system; a system measuring earnings by quality or quantity of production; or a differential based on any factor other than sex. Reduction of an employee's pay in order to comply with this legislation is not permitted. Employers' and employees' organizations are prohibited from causing or attempting to cause an employer to pay his employees rates of pay that contravene the legislation. Where the employer has not paid the wages required,

the Labour Standards Officer may determine the amount owing the employee and such amount shall be deemed to be unpaid wages. Where the officer is unable to effect a determination, the matter is referred to the Advisory Board for investigation. The Board, upon review of the matter recommends what action should be taken.

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1974 Labour Standards in Canada



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LABOUR STANDARDS
IN CANADA

December 1974

LABOUR CANADA
Legislative Research Branch

Hon. John Munro, Minister
T.M. Eberlee, Deputy Minister

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FOREWORD

This publication sets out the provisions of federal and provincial labour standards laws enacted by the end of 1974 in the areas of statutory school-leaving age, minimum age for employment, minimum wages, equal pay for equal work, hours of work, weekly rest-day, annual vacations, general holidays, termination of employment, maternity protection and severance pay.

"Standards" as used in the title means the minimum standards required by law. These standards are set out in narrative form and in tables, where appropriate.

The publication was prepared by Mr. Allan Nodwell and Mrs. Rosemary O'Hara.

N. Kean,
A/Director,
Legislative Research Branch,
Canada Department of Labour.

February 1975.

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DIVISION OF LEGISLATIVE POWERS

Both the Parliament of Canada and the provincial legislatures have the power to enact labour laws. The jurisdiction of the provincial and federal governments arises from The British North America Act, Sections 91 and 92. Judicial interpretation of these sections gives provincial legislatures major jurisdiction, with federal authority limited to a narrow field.

Provincial authority is derived from the "property and civil rights" subsection of the B.N.A. Act. The right to enter into contracts is a civil right, and since labour laws impose certain restrictions on contracts between employers and employees, they fall within provincial authority as property and civil rights legislation. Provinces also have the right to legislate as to "local works and undertakings."

Federal jurisdiction in the labour law field arises from the right to regulate certain subjects expressly assigned to Parliament by Section 91 of the B.N.A. Act, or expressly excepted from provincial jurisdiction by Section 92. These subjects are of a national, international or inter-provincial nature. In addition, Parliament has jurisdiction to regulate works wholly within a province which have been declared by Parliament to be works "for the general advantage of Canada or for the advantage of two or more of the provinces," as, for example, grain elevators, feed mills and uranium mines. By virtue of its exclusive power to regulate certain works and undertakings, Parliament has the incidental power to enact labour laws relating to those works and undertakings.

The Canada Labour Code applies to:

- (1) Works or undertakings connecting a province with another province or country, such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals and telegraph, telephone and cable systems.
- (2) All extra-provincial shipping and services connected with such shipping, e.g., longshoring and stevedoring.

- (3) Air transport, aircraft and aerodromes.
- (4) Radio and television broadcasting.
- (5) Banks.
- (6) Defined operations of specific works that have been declared to be for the general advantage of Canada or of two or more provinces, such as flour, feed and seed cleaning mills, feed warehouses, grain elevators and uranium mining and processing.
- (7) Most federal Crown corporations, e.g., the Canadian Broadcasting Corporation and the St. Lawrence Seaway Authority.

The jurisdiction of Parliament is generally limited to the above industries, with certain possible additions arising from subsequent judicial decisions.

In addition, Parliament has exclusive jurisdiction to pass laws dealing with the Yukon and Northwest Territories. Parliament has enacted legislation for local government in each territory, having power over property and civil rights and matters of a local and private nature. Accordingly, the territorial governments have virtually the same legislative powers with regard to labour laws as do the provinces.

Labour standards legislation has been enacted by the Territorial Councils of the Yukon and Northwest Territories in most of the fields of legislation covered by this publication. Labour Standards Ordinances, modelled on the Canada Labour Code, Part III (Labour Standards), with modifications to meet the particular requirements of the Territories, went into force July 1, 1968. The Ordinances established minimum standards of hours of work, wages, annual vacations and general holidays for employees in the Territories. Previous to the enactment of the Northwest Territories Ordinance, the only labour standards applicable were those established by mines legislation. Standards in the Yukon Ordinance replaced those previously laid down in the Yukon Labour (Minimum Wages) Ordinance, the Labour Provisions Ordinance and the Annual Vacations Ordinance.

The Commissioner of each Territory is to administer the Ordinance, with the advice and assistance of an Advisory Board, consisting of a chairman, an employers' representative and an employees' representative. Provision was made for the appointment of a Labour Standards Officer to administer the Ordinance, under the Commissioner's direction, and for the appointment of inspectors.

The Ordinances apply to employers and employees in any work, undertaking or business of a local or private nature in the Territory. The Northwest Territories Ordinance excludes domestic servants in private homes, trappers, persons engaged in commercial fisheries, and managers or superintendents or persons who exercise management functions. Members or students of designated professions may be excluded by regulations. The Yukon Ordinance applies generally but certain classes of employees are excluded from Part I governing hours of work.

STATUTORY SCHOOL-LEAVING AGE

In all provinces there is a school attendance law which makes it compulsory for children between specified ages to attend school. Exceptions are permitted where a child is unable to attend because of illness or other unavoidable cause and, in most provinces, because of distance from school (where no conveyance is provided) or lack of school accommodation. Some Acts stipulate that a child may be excused from attendance before reaching the statutory school-leaving age if he has already attained a specified standing. An exception may also be granted in special cases, if it appears to be in the interest of the child that he should be excused from school attendance or where the child is certified to be under efficient instruction elsewhere.

In Manitoba, a child over 15 may be permitted to leave school on production of a certificate signed by his parent or guardian, the school attendance officer and the superintendent of schools or, if there is no superintendent, by the school inspector.

In five provinces, a child may be exempted from school attendance for a temporary period on the application of his parent or guardian, if his services are required for necessary farm or home duties or for employment. The New Brunswick Schools Act states that the Minister of Education may issue a certificate relieving a child from school attendance for a maximum period of six weeks in each school term, on the written application of the child's parent, if he agrees with the reasons for such application. In Prince Edward Island, the Minister of Education may certify in writing to the regional school board that a child should be exempted from school attendance. No such exemptions are provided for in Alberta, British Columbia and Ontario.

In both Territories, a School Ordinance provides for compulsory school attendance to the age of 15. In the Northwest Territories, if a child reaches his 15th birthday after December 31, he must attend to the end of the school year. As in the provinces, a child may be exempted from school attendance if he is under instruction in some other satisfactory manner, if he is prevented from attending school for any unavoidable cause, or if he has reached a standard of education equal to or higher than that to be attained in the school. In the Northwest Territories, a

child may be allowed to leave school before the statutory school-leaving age if he has completed Grade VIII or its equivalent. An exception is also permitted in the Northwest Territories in the case of a child who is unable to attend because of distance from school or lack of school accommodation.

The employment of children of school age during school hours is forbidden unless a child is excused for any reason provided in the Acts. The school-leaving age in each province and territory and the provisions for exemption for employment are shown in the table below.

1. Statutory School-leaving Ages
and Work Exemptions

Province	School-leaving Age	Work Exemptions
Alberta	16	
British Columbia	15--unless course completed at nearest public school and transport to higher school not provided	
Manitoba	16--must attend to end of school term	Over 12, for not more than 4 weeks in a school year if services needed in husbandry or home duties Over 15, with certifi- cate signed by parent, attendance officer and superintendent of schools
New Brunswick	15--unless Grade 12 passed	For not more than 6 weeks in each school term if Minister agrees with reasons for parents' application
New- foundland	15--must attend to end of school year	For period stated in certificate if services needed for maintenance of self or others, child under 12 for not more than 2 months in a school year except with approval of Minister

Province	School-leaving Age	Work Exemptions
Nova Scotia	16	If 12, for not more than 6 weeks in a school year if services needed for home duties or other necessary employment If 13, with employment certificate if services needed for maintenance of self or others; medical certificate may be required
Ontario	16--unless secondary school or equivalent completed. Must attend to end of school year	
Prince Edward Island	15	If Grade 12 completed or Minister certifies exemption from school attendance
Québec	15--must attend to end of school year	For not more than 6 weeks in a school year if ser- vices needed in farming, home duties or mainten- ance of self or relatives
Saskatchewan	16--unless Grade 8 or equivalent pas- sed also where exemption permitted by superintendent	If services needed for maintenance of self or others

Province	School-leaving Age	Work Exemptions
Northwest Territories	15--must attend to the end of the school year if after December 31, or unless Grade 8 or equivalent passed. Also where distance from or lack of school accommodation prevents attendance	
Yukon Territory	15--unless for unavoidable cause, has reached a standard equal or higher to school's standard or being instructed in a manner and to a standard satisfactory to the Superintendant	

MINIMUM AGE FOR EMPLOYMENT

The Canada Labour Code, Part III and regulations do not set an absolute minimum age for employment, but lay down conditions under which young persons under 17 years may be employed in federal undertakings. A young person under 17 may be employed in a federal industry only if he is not required to be in attendance at school under the laws of his province; the work in which he is to be employed is not likely to injure his health or endanger his safety; and he is not employed underground in a mine or in work prohibited for young workers under the Explosive Regulations, the Atomic Energy Control Regulations or the Canada Shipping Act.

Employment for young workers under 17 is subject to two further conditions: that an employee under 17 is not required or permitted to work between 11 p.m. and 6 a.m.; and that he is paid not less than \$1.95 an hour, unless he is undergoing on-the-job training under an approved training plan.

The Canada Shipping Act fixes a minimum age of 15 for employment at sea.

In the provincial jurisdictions, a minimum age for employment is set by mines Acts and a variety of other provincial legislation (child labour laws, Child Welfare Acts, the Alberta Labour Act, the Manitoba Employment Standards Act, factory or industrial safety laws and minimum wage orders).

Four provinces -- British Columbia, Nova Scotia, Prince Edward Island and Newfoundland -- have a child labour law, prohibiting employment below a specified age. The Newfoundland Employment of Children Act, 1968, is to go into force upon proclamation.

The British Columbia Control of Employment of Children Act forbids employment of a child under 15 in specified industries or occupations, unless a permit is obtained from the Minister of Labour. The Act applies to manufacturing, shipbuilding, electrical works, logging, construction, catering, public places of amusement, the mercantile industry, shoeshine stands, automobile service stations, road transport and the laundry, cleaning and dyeing industry.

Under the Nova Scotia Labour Standards Code, sections 65-67, employment of a child under 16 is forbidden in industrial undertakings (including mines, quarries and construction), the forest industry, garages and service stations, hotels and restaurants, operating elevators, theatres, dance halls, shooting galleries, bowling alleys and billiard and pool rooms, and in any employment prohibited by regulations. Subject to any Act or regulations, this restriction does not apply to an employer who employs members of his family. The employment of children under 14 is prohibited in work unwholesome or harmful to health or normal development, or which prejudices attendance at school or the child's capacity to benefit from instruction; for more than eight hours in a day; for more than three hours in a school day (except with an employment certificate); on any day for a period that, when added to school hours, totals more than eight; at night between 10 p.m. and 6 a.m.; or any work employment prohibited by regulation. The Nova Scotia Construction Safety Act sets a minimum age of 16 years for employment in construction.

The Prince Edward Island law (the Minimum Age of Employment Act) sets a minimum age of 15 years for employment in mining, manufacturing, shipbuilding, electrical works, construction, transport by road, rail or inland waterway, undertakings involving the conversion, canning or packaging of any farm or sea products and the printing and publishing of newspapers, books and magazines.

The Newfoundland Act, which has not been proclaimed, prohibits the employment of children under the age of 16. There is provision in the Act, however, for the making of regulations by the Lieutenant Governor in Council permitting the employment of children under 16 in any specified occupation, subject to such conditions as may be prescribed.

The Act lays down the conditions under which a child under 16 may not be employed. He may not be employed to do any work that is or may be harmful to his health or normal development or that may prejudice his attendance at school or his capacity to benefit from school instruction. He may not work more than eight hours in a day or more than three hours on a school day. Time spent at school and at work may not total more than eight hours. Work between the hours of 9 p.m. and 8 a.m. is prohibited. Further, he may not be employed during a strike or lockout. Children under the age of 14 may not be employed in any occupation specified by regulation.

Two other provinces -- Alberta and Manitoba -- have fixed a minimum age for most employment in their labour codes.

In Alberta, a person under 15 may not be employed in any employment except with the written consent of the parent or guardian and the approval of the Board of Industrial Relations. As the school-leaving age is 16 and no exemptions are allowed for employment, children under 16 may work only when school is not in session. However, a person under the age of 15 may be employed if they have been excused from school attendance under the School Act for the purpose of securing vocational training through employment; or if they are enrolled in a work experience program approved by the Minister of Education and the Board of Industrial Relations.

A regulation under the Alberta Labour Act contains several provisions governing the employment of persons under 18 years. Children over 12 and under 15 may be employed: as deliverers of small wares for a retail store; clerks in a retail store; clerks or messengers in an office; or deliverers of newspapers, flyers or handbills if the employment is not likely to be injurious to the life, health, education or morals of the person. The parents of a person under 15 shall file with the employer written consent for the employment of the person. Employment of such person is limited to two hours in a day on which they are required to attend school; or eight hours on non-school days. Employment of a person under 15 is prohibited between 9 p.m. and 6 a.m. Further, persons over 15 and under 18 are forbidden to work between 9 p.m. and 12:01 a.m. on the premises of a retail business selling food or beverages (whether alcoholic or not) or any other commodities, goods, wares or merchandise, or petroleum or natural gas products, or any establishment, including a hotel or motel, where the owner is required to hold a visitor's accommodation business license, unless the young person works with and is in the continuous presence of at least one other person 18 years of age or over.

No young person shall work in the above-mentioned premises between the hours of 12:01 a.m. and 6:00 a.m. A young person between the ages of 15 and 18 years may work in other premises not specified above if the parent or guardian has given written consent and if the young person works with and is in the continuous presence of at least one other person 18 years of age or over.

In Manitoba, a child under 16 may not be employed in a factory. For any other employment, the minimum age is 16, unless a written permit is obtained from the Minister of Labour.

Five provinces have Child Welfare Acts which limit the employment of children in various ways. Under the Newfoundland Act, no child under 16 may be employed: (1) between 9 p.m. and 8 a.m. except in employment in which members of the employer's family are employed under his or her supervision; or (2) in any occupation prohibited by an order of the Lieutenant Governor in Council. Employers are forbidden to employ an unmarried girl under 16 in a restaurant, tavern or hotel without the written consent of her parents or guardian. Neither may a child under 16 be employed for remuneration when he is required to be at school by the provisions of the School Attendance Act, 1962. In Alberta, the Child Welfare Commission may grant licences for employment of a child over 12 in any entertainment under certain conditions. It must be satisfied that there is no danger to the child's life, limbs, health, education or morals and that provision is made for his health and kind treatment. Where a person employs a child to perform for profit in public without a licence or contrary to the provisions of a licence he is guilty of an offence. Under the Manitoba Child Welfare Act a municipal council may pass by-laws for regulating, controlling and licensing children employed as messengers, newspaper vendors, shoe shiners, pin boys or juvenile entertainers. No child may work for a fee in any of these occupations without a licence. No licence shall be issued to any female child or any male child under 12. Nor shall any child over 12 but under 14 be granted a licence without the authorization of his parents or guardian. No child may work at the occupation for which he is licensed during school hours nor (unless he is a juvenile performer) after specified hours in the evening, depending on the season. No person may habitually employ a child between the hours of 9:00 p.m. and 6:00 a.m. nor may he employ a child in any occupation likely to be injurious to his life, limbs, health, education or morals. Severe fines and penalties are imposed for abuses of children against the provisions of the Act.

The Saskatchewan Welfare Act provides that a child who is employed between 10 p.m. and 6 a.m. of the following day may be apprehended by a welfare officer or peace officer and taken to a place of safety. A person who (a) causes a child to be in a public place for the purpose of begging, etc., under the pretence of performing;

or (b) causes a child under 13 to be employed between 10 p.m. and 6 a.m.; or (c) causes a child to be in a circus or place of public amusement to perform for profit is guilty of an offence and liable to a fine or imprisonment or both. A licence may be issued by the mayor or other authority to permit a child to take part in public entertainment under suitable conditions.

In the other provinces, a minimum age for a wide field of employment is established in factory or industrial safety laws and, in Saskatchewan, a minimum wage order.

In New Brunswick, the Industrial Safety Act prohibits the employment of a child under 16 years of age in any place of employment without a written authorization from the Minister.

In Ontario, the minimum age for employment in an industrial establishment is 15 years. "Industrial establishment" is defined as being an office, factory or shop. A child of 14 may be employed in a shop, office or office building, restaurant, bowling alley, pool room or billiard parlour if the work is not likely to endanger his safety. The Child Welfare Act provides that girls under 16 and boys under 12 must not engage in or be licensed or permitted to engage in any street-trade or occupation. Boys between 12 and 16 must not engage in such trade between 9 p.m. and 6 a.m.

The Ontario Construction Safety Act fixes a minimum age of 16 years but permits the employment of 15-year-olds in such parts of a construction project as may be designated by the regulations. No provision has been made in the regulations to date for the employment of 15-year-olds. A minimum age of 16 has been established for the logging industry.

As the school-leaving age in Ontario is 16 years and no exemptions are now permitted for employment, the above-mentioned minimum ages which are below the age of 16 apply only to such time as school is not in session. No child under 16 may be employed in any employment during school hours.

In Québec, the minimum age for employment in an industrial or commercial establishment is 16 years. The same minimum age applies to employment in hotels, restaurants, theatres and other places of amusement and

to the employment by a department store or telegraph company of boys or girls as messengers. Children of 15 years of age may be employed in any of these work-places during school vacations, but only with a permit from the inspector.

Boys and girls under 16 are forbidden to sell papers or carry on any street trade unless they can read and write fluently, and such work may not be carried on after 8 p.m.

In Saskatchewan, no person under 16 may work in a factory (which term includes dry cleaning establishments and laundries, garages and service stations, and coal, potash and sodium sulphate mines) or in a hotel, restaurant, educational institution, hospital or nursing home. Regulations may be made prohibiting the employment of young persons under 18 in factories where the work is deemed dangerous or unwholesome. Unless a permit is obtained from an inspector, the hours of work for young persons under 18 are limited to 48 in a week and night work is forbidden.

Mines Acts in all provinces but Prince Edward Island (which has no mining operations) fix the minimum age for employment in mines. In all jurisdictions females are forbidden to work in mines.

The minimum age for employment in mines, factories, shops, hotels and restaurants is set out in the table below. In most provinces, as indicated above, the legislation (apart from mines Acts) covers certain other classes of establishments in addition to those set out in the table.

Under a Mining Safety Ordinance in each Territory, the minimum age for employment underground or at the working face of any open cut workings, pit or quarry is 18 years. The minimum age for employment in or about a mine is 16 years in the Northwest Territories.

Under the Labour Standards Ordinance of the Yukon, regulations may be made laying down conditions under which young persons under the age of 17 years may be employed. In the Northwest Territories, a person under the age of 17 may be employed in any occupation except in such occupations and subject to such conditions as are prescribed by regulation.

2. Minimum Age for Employment

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Alberta	17	15 except with permit ¹	15 except with permit ¹ ₂	15 except with permit ¹
British Columbia	18 below ground ³	15 except with permit	15 except with permit	15 except with permit
Manitoba	16 above 18 below	16	16 except with permit	16 except with permit
New Brunswick	Coal: 16 Metal: 16 above 18 below	16 except with permit	16 except with permit	16 except with permit
*Newfound- land	16 above ⁴ 18 below	16 ⁴	16 ⁴	16 ⁴
Nova Scotia	Coal: 18½ below Metal: 16 above 18 below	16 ⁴	14	16 ⁴
Ontario	16 above 18 below	15 ¹	14 ^{1,5}	14 ^{1,5} (restaur- ants only)
Prince Edward Island	15	15	--	--

*Act not yet proclaimed in force.

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Québec	15 above 18 below	16 ^{6,7}	16 ⁶	16 ^{6,7}
Saskatchewan	16 above 18 below	16	--	16
Yukon Territory	18 below	17 ⁶	17 ⁶	17 ⁶
Northwest Territories	16 above 18 below	-- ⁸	-- ⁸	-- ⁸

¹ A child under 16 may not be employed during school hours.

² Minimum age of 12 years in certain occupations, including work as clerk, delivery boy or delivery girl in retail store, with written consent of parent and subject to restrictions on hours (2 hours in a school day, 8 hours on any other day) if not injurious to life, health, education or morals.

³ A boy who has reached the age of 17 may be employed underground for the purpose of training.

⁴ Except in family undertakings.

⁵ A child of 14 may be employed if the work is not likely to endanger his safety.

⁶ The Government may exempt establishments from the Act.

⁷ For certain dangerous occupations, the minimum age is 18 for boys; for others, it is 16 for boys and 18 for girls.

⁸ A person under the age of 17 may be employed in any occupation except in such occupations and subject to such conditions as are prescribed by regulation.

MINIMUM WAGES

Minimum wage laws are in force in the federal jurisdiction, all ten Canadian provinces and the two Territories.

The Canada Labour Code (Part III, Division II) sets a minimum rate for employees 17 years of age and over in the federal industries. This rate may be increased from time to time by order of the Governor in Council. The rate for persons under 17 is established by regulation.

Employees who are paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to be paid the equivalent of the minimum wage.

An employer who is providing on-the-job training to increase the skill or proficiency of his employees, in accordance with conditions prescribed by the regulations, may be exempted from paying the minimum wage to such employees during the whole or part of the training period.

The Code provides also for the payment of a wage lower than the minimum rate to handicapped employees under a system of individual permits.

In Alberta, Manitoba, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan, minimum wage legislation is part of each province's labour code -- the Alberta Labour Act, Part III, Division II; the Manitoba Employment Standards Act, Part II; the Nova Scotia Labour Standards Code, sections 48-54; the Ontario Employment Standards Act, 1974, Part V; the Prince Edward Island Labour Act, Part II, section 51; the Saskatchewan Labour Standards Act, Part III. The other provinces have individual minimum wage laws.

In most provinces, minimum wage boards or other labour boards are authorized by law to recommend minimum rates of wages or to establish such rates with the approval of the Lieutenant Governor in Council. In Ontario minimum rates are established by the Lieutenant Governor in Council. In Alberta and British Columbia they are set by the Boards of Industrial Relations. The rates are then imposed by minimum wage orders or, in Ontario and Manitoba, by regulations under the provincial Employment Standards Act.

Except in two provinces, the Acts do not specify how the minimum wage is to be determined. In Manitoba, the board is directed to take into consideration and be guided by "the cost to an employee of purchasing the necessities of life and health." The Québec Minimum Wage Commission is directed to consider "competition from outside countries or from the other provinces and the economic conditions peculiar to the various regions of the province."

The practice is to fix a general basic wage, taking into account the cost of living, economic conditions and other relevant factors. The minimum wage rate is set mainly for the protection of the unorganized and unskilled worker. It constitutes a floor above which trade unions may negotiate with management for a higher standard. The boards hold public hearings and make extensive inquiries before minimum wage orders are put into effect. Minimum wage orders are reviewed fairly frequently.

The boards are composed of members who represent the interests of employers and employees and in some cases the general public, with an impartial chairman, frequently an officer of the Department of Labour. In British Columbia at least one member of the board must be a woman, and in Nova Scotia and Saskatchewan there must be two women on the board.

In most provinces, minimum wage orders now cover practically all employment. Domestic service in private homes is excluded in all provinces except Prince Edward Island. In Newfoundland, an employer may not pay less than \$25.00 per week for domestic service. Farm labour is also excluded in all provinces except Newfoundland. In Ontario and Nova Scotia this exclusion is limited to farming proper, certain farm-related occupations being covered. Persons in Manitoba who are employed in selling horticultural or market garden products grown by another person are covered. In Saskatchewan, minimum wage rates apply to egg hatcheries, greenhouses, nurseries and brush clearing operations, and in Alberta and Prince Edward Island to farm workers employed in commercial undertakings.

A few other classes of workers are excluded in most jurisdictions. Typical exclusions are supervisory and managerial employees, certain categories of employed students, registered apprentices, certain categories of salesmen, and members and students of professions.

Minimum wage orders apply to both men and women.

In all provinces general orders are issued setting hourly rates that apply to most workers throughout the province. In five provinces, these general orders are supplemented by special orders, applying to a particular industry, occupation or class of workers and in some cases taking into account a special skill.

British Columbia, which originally had a separate minimum wage order for each industry or occupation, has been consolidating its orders. Twelve special orders still remain; the minimum rates set by these orders are the same as the rate set in the general order.

Québec has three industry orders, governing the retail food trade, sawmills and forest operations. Formerly there were eight special orders. The rates set by all three special orders are lower than the general rates.

The other provinces set only a few special rates. Nova Scotia has established rates for employees in beauty parlors and province-wide rates for logging and forest operations and for road building and heavy construction. Special rates for construction, mining and primary transportation and for logging, forest and sawmill operations have been set in New Brunswick. A weekly rate has been set in Alberta for commercial agents and salesmen. Special rates contained within the general regulation in Ontario apply to the construction and ambulance service industries.

In the Northwest Territories and the Yukon, Labour Standards Regulations were issued under the Labour Standards Ordinance. Both Ordinances require the payment of a minimum rate of wages to employees who are 17 years of age and over.

Where employees are paid on a basis other than time, or on a combined basis of time and some other basis, they are required to receive the equivalent of the minimum wage.

In three provinces the orders provide that inexperienced workers may be employed during a specified period at a rate below the regular minimum. These rates may be applicable generally or to a particular occupation.

Provision is also made in the legislation of almost all jurisdictions for the employment of handicapped workers at rates below the established minimum, usually under a system of individual permits.

In all jurisdictions except New Brunswick, Newfoundland, Saskatchewan and the Yukon Territory, the orders set special minimum rates for young workers. Student rates are set in two provinces.

In addition to setting minimum wage rates, minimum wage legislation usually contains other related provisions intended to protect the worker. The most prevalent of these provisions are described below.

Tipping is dealt with specifically in the Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Québec and federal legislation. These provisions make it clear that gratuities are not to be counted as part of wages. In New Brunswick a new section under the Minimum Wage Act established that money paid as a tip or gratuity, or as a surcharge or other charge in lieu of a tip or gratuity is the property of the employee to whom or for whom it is given and shall not be withheld by the employer. Québec orders state that tips are the exclusive property of the employee, and the employer is not allowed to deduct them or to consider them as part of the wages paid, even with the employee's consent. Boards in other provinces take the position that gratuities are not to be regarded as wages.

Québec regulations state that employees who work in hotel trade establishments and who usually receive tips are entitled to the minimum hourly rate less 30 cents.

There are provisions in the orders of most provinces and the Territories (and also in the federal Labour Code) relating to the charges or deductions for board and lodging, where furnished by the employer to the employee.

In some jurisdictions (federal, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island, Québec, the Northwest Territories and the Yukon), the orders set limits on the amounts by which such charges may reduce the minimum wage. The Ontario orders fix the

maximum amounts at which meals or a room or both may be valued for minimum wage purposes, where board and lodging are provided as part of wages. In the other provinces, the orders set the maximum charges or deductions that may be made.

The Northwest Territories stipulates that an employee's wages must not be reduced below the minimum wage for meals supplied; the furnishing and upkeep of uniforms; or for accidental breakages.

Maximum charges or deductions are not set in British Columbia orders. If the board finds that services are inadequate or charges are excessive, it may specify the maximum charges that may be made.

Requirements are also laid down in some minimum wage orders regarding the provision and maintenance of uniforms, where these are required to be worn.

Most general orders contain a "daily guarantee" or "call-in-pay" provision requiring that an employee who is called to work be paid for a certain number of hours, even if he is not put to work or if he works for a shorter period. This two-, three-, or four-hour minimum period, as the case may be, must be paid for at the minimum rate, except in British Columbia, where payment is required at the employee's regular rate of pay.

Under a Northwest Territories Regulation, an employee who is required to report for work must be paid a minimum of 4 hours' pay at his regular rate.

3. General Minimum Wage Rates for
Experienced Adult Workers
(Legislated as of December 31, 1974)

Jurisdiction	Rate	Effective Date
Federal	\$2.20	April 1, 1974
Alberta	\$2.00 \$2.25 \$2.50	April 1, 1974 January 1, 1975 July 1, 1975
British Columbia	\$2.50	June 3, 1974
Manitoba	\$2.15 \$2.30	July 1, 1974 January 1, 1975
New Brunswick ¹	\$1.75 \$1.90 \$2.15 \$2.30	January 1, 1974 July 1, 1974 January 1, 1975 July 1, 1975
Newfoundland	\$1.80 \$2.00 \$2.20	January 1, 1974 July 1, 1974 January 1, 1975
Nova Scotia	\$1.80 \$2.00 \$2.20 \$2.25	July 1, 1974 October 1, 1974 January 1, 1975 March 1, 1975
Ontario	\$2.00 \$2.25	January 1, 1974 October 1, 1974
Prince Edward Island	\$1.65 \$1.75 \$2.05	January 1, 1974 July 1, 1974 January 1, 1975
Québec ²	\$2.10 \$2.30	May 1, 1974 November 1, 1974

Jurisdiction	Rate	Effective Date
Saskatchewan	\$2.25	July 2, 1974
Northwest Territories	\$2.50	April 1, 1974
Yukon Territory	\$2.30	April 1, 1974

¹New Brunswick -- Waitresses, waiters, doormen, bellmen and assistant bell captains, \$1.65; \$1.80; \$2.05 and \$2.30 on corresponding date.

²Québec -- Employees of hotel trade establishments (e.g., hotels, restaurants, bars, camping grounds, etc.), who usually receive tips are entitled to general hourly rate less 30 cents an hour.

4. Minimum Wage Rates for
Young Workers and Students*
(Legislated as of December 31, 1974)

Jurisdiction	Rates per Hour		Effective Date
Federal	Employees under 17:	\$1.95	April 1, 1974
Alberta	Employees under 18:	\$1.85 \$2.10 \$2.35	April 1, 1974 January 1, 1975 July 1, 1975
	Students under 18 employed part-time:	\$1.50 \$1.75 \$2.00	April 1, 1974 January 1, 1975 July 1, 1975
British Columbia	Employees 17 and under:	\$2.10	June 3, 1974 ¹
Manitoba	Employees under 18:	\$1.90 \$2.05	July 1, 1974 January 1, 1975
Nova Scotia	Underage employees 14 to 18:	\$1.55 \$1.75 \$1.95 \$2.00	July 1, 1974 ² October 1, 1974 January 1, 1975 March 1, 1975
Ontario	Students under 18 employed for not more than 28 hours in a week or during a school holiday:	\$1.65 \$1.90	January 1, 1974 ³ October 1, 1974
Prince Edward Island	Employees under 18:	\$1.45 \$1.50 \$1.80	January 1, 1974 July 1, 1974 January 1, 1975

*New Brunswick, Newfoundland, Saskatchewan
and the Yukon Territory have no special
rates for young workers or students.

Jurisdiction	Rates per Hour		Effective Date
Québec	Employees under 18:	\$2.00	May 1, 1974 ⁴
		\$2.10	November 1, 1974
Northwest Territories	Employees 16:	\$2.00	April 1, 1974
	Employees 15:	\$1.75	April 1, 1974
	Employees under 15:	\$1.50	April 1, 1974

¹ British Columbia -- Does not apply to bus operators, resident caretakers, or taxicab drivers.

² Nova Scotia -- Except with approval of Minimum Wage Board, no more than 25% of employer's total workforce may be underage employees (14-18), except where his total working force is 7 or less he may employ 2. In a hotel, restaurant, motel or tourist resort during the period June 15 - September 15, up to 60% of employees may be underage workers. These rates do not apply in beauty parlours, logging and sawmill operations or road building and heavy construction.

³ Ontario -- Student rates do not apply to the ambulance or construction industries.

⁴ Québec -- Rate of \$2.00 for sawmill workers under 18 set by ordinance governing sawmills.

5. Minimum Rates and Learning Periods
for Inexperienced Workers*
(Legislated as of December 31, 1974)

Jurisdiction	Hourly Rates and Learning Periods	Effective Date
Nova Scotia	During first 3 months of employment:	
	\$1.55	July 1, 1974 ¹
	\$1.75	October 1, 1974
	\$1.95	January 1, 1975
	\$2.00	March 1, 1975
Ontario	During first month of employment:	
	\$1.90	January 1, 1974 ²
	\$2.15	October 1, 1974

* No provision for lower rates for learners in federal jurisdiction, British Columbia, Manitoba, Prince Edward Island, New Brunswick, Newfoundland, Québec or Saskatchewan. In Alberta a learner's rate is set only for workers in the garment industry. In addition to the general rate for experienced workers, Nova Scotia has a learner's rate for beauty parlours.

¹ Nova Scotia -- Inexperienced employees are persons with less than 3 months' experience in the work for which they are employed. Without the express approval of the Minimum Wage Board, the number of underage or inexperienced employees employed by the employer may not exceed 25% of his total working force. An employer whose total working force is seven or less may employ two inexperienced employees. However, in the case of an employer operating a motel, hotel, restaurant or tourist resort from June 15 to September 15, up to 60% of the persons employed may be underage or inexperienced employees during this period.

² Ontario -- Not more than 20% of total number of employees in an establishment may be employed as learners, and only persons who have no previous experience in the work may be paid learners' rates.

6. Maximum Charges Permitted
for Board and Lodging*
(Legislated as of December 31, 1974)

Jurisdiction	Meals		Lodging		Board and
	single	per week	per day	per week	Lodging per week
Federal	50¢		60¢		
Alberta	75¢		\$1.00		
Manitoba	50¢			\$5.00	
New Brunswick	85¢**				\$2.50 per day
	\$1.00***				\$2.75 per day
Newfoundland	65¢	\$11.00		\$4.75	\$15.75
Nova Scotia ¹	60¢	\$10.00		\$5.00	\$15.00
Ontario	\$1.00	\$21.00		\$9.00	\$30.00
Prince Edward Island	75¢	\$10.00		\$5.00	\$15.00
Québec ²	75¢			\$6.00	\$21.00
Saskatchewan ³	60¢ or \$1.80 per day			60¢	
Northwest Territories	65¢			80¢	
Yukon Territory	50¢			60¢	

* No maximum charges set in British Columbia

** January 1, 1974

***January 1, 1975

¹Nova Scotia -- Logging and forest operations: board and lodging, \$3.00 per day; construction, no charges set; beauty parlour employees same as table.

²Québec -- Sawmill and forest operations: single meal, 65¢; board and lodging, \$1.95 per day; retail food trade, same as table.

³Saskatchewan -- Applies to hotels and restaurants and employees earning \$100 or less a week in educational institutions, hospitals and nursing homes only.

EQUAL PAY

The Parliament of Canada, the two territories and all provinces but Québec have enacted laws which require equal pay for equal work without discrimination on the grounds of sex.

The Québec fair employment practices law forbids discrimination in employment on the basis of sex, thus prohibiting, among other things, discrimination in rates of pay solely on the grounds of sex. Similar prohibitions against discrimination in employment are contained in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Ontario human rights legislation.

In five jurisdictions equal pay provisions are contained in the labour code -- the Canada Labour Code, Part III, Division II.1; the Ontario Employment Standards Act, 1974, Part IX; the Saskatchewan Labour Standards Act, Part V; the Nova Scotia Labour Standards Code (sections 55-57); and the Yukon Territory Labour Standards Ordinance, (section 12-1). In four other provinces equal pay provisions form part of human rights legislation -- the Alberta Individual's Rights Protection Act, the Human Rights Code of British Columbia and the Newfoundland and Prince Edward Island Human Rights Codes. The Northwest Territories Fair Practices Ordinance, which is a human rights code, also provides for equal pay for equal work. Manitoba and New Brunswick have separate equal pay Acts.

The Newfoundland and New Brunswick legislation forbids an employer to pay a female employee at a rate of pay less than the rate paid to a male employee for the same work done in the same establishment.

The Prince Edward Island Act states that an employer may not pay a female employee at a rate of pay less than the rate paid to a male employee for substantially the same work done in the same establishment. The British Columbia Act refers to the same work or substantially the same work done in the same establishment.

The Alberta Act forbids an employer to employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer (or vice versa) for similar or substantially similar work. The work is deemed to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar. Reduction of an employee's rate of pay in order to comply with the legislation is prohibited.

In the Northwest Territories an employer is forbidden to pay a female employee at a lesser rate than the rate paid to a male employee for the same work done in the same establishment. A difference in rates based on a factor other than sex does not constitute discrimination.

This prohibition does not apply to employers who employ fewer than 5 employees, to domestic employment, or to non-profit charitable, philanthropic, educational, fraternal, religious or social organizations or those operated primarily to foster the welfare of a religious or racial group.

In the Yukon Territory, sections of the Labour Standards Ordinance prohibit an employer from paying a female employee at a lesser rate of pay than that paid to a male employee or vice versa for the same work performed under similar working conditions except where such payment is made pursuant to a seniority system; a merit system; a system measuring earnings by quality or quantity of production; or a differential based on any factor other than sex. Reduction of an employee's pay in order to comply with this legislation is not permitted. Employers' and employees' organizations are prohibited from causing or attempting to cause an employer to pay his employees rates of pay that contravene the legislation.

The federal, Ontario, Saskatchewan and Manitoba provisions also protect persons of either sex against discrimination in the payment of wage rates. These provinces, and also Nova Scotia, lay down criteria for determining whether the work performed is the same or similar.

In the federal jurisdiction, an employer is forbidden to establish or maintain differences in wages between male and female employees employed in the same industrial establishment, who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility.

In Ontario, no employer or person acting on behalf of an employer shall differentiate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or vice versa, for substantially the same kind of work performed in the same establishment, the performance of which requires substantially the same skill, effort and responsibility, and which is performed under similar working conditions, except where such payment is made

pursuant to a seniority system; a merit system; a system that measures earnings by quantity or quality of production; or a differential based on any factor other than sex.

In Saskatchewan, the employer is prohibited from paying a female employee at a lesser rate of pay than that paid to a male employee or vice versa for similar work performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions. Nova Scotia's provisions apply for the same work performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions except that they only apply to female employees.

In the federal, Alberta, Ontario and Saskatchewan jurisdictions the employer is forbidden to reduce the rate of pay of an employee in order to comply with the equal pay requirement. Further, in Ontario, employee or employer organizations may not cause or attempt to cause an employer to pay wages that contravene the equal pay provisions of the Act.

In Manitoba an employer is forbidden to pay the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment, if the work required of, and done by, employees of each sex is the same or substantially the same. By way of clarification, the Act states that the work of male and female employees is to be deemed the same or substantially the same if the job, duties, responsibilities, or services that the employees are called upon to perform are the same or substantially the same in kind or quality and substantially equal in amount.

All the Acts make it clear that a difference in rates of pay based on a factor other than sex does not constitute failure to comply with their requirements. In Nova Scotia, however, the employer must establish that such a factor justifies a different rate of pay.

The Saskatchewan Act contains specific exceptions in addition to the general exception permitting a differential based on any factor other than sex. Differences in

rates of pay based on a seniority system or a merit system do not constitute discrimination within the terms of the Act.

In all provinces, except British Columbia and the two territories, equal pay legislation is applicable to provincial government employees. The federal Act covers employees of Crown corporations but does not apply to other federal public servants. Rates of pay of classified public servants are set by classification, according to the type of work performed, without any distinction based on sex.

The procedure laid down for the enforcement of equal pay provisions may be invoked upon complaint by the aggrieved person in British Columbia, New Brunswick, Newfoundland, Prince Edward Island and the Northwest Territories.

In Alberta, Manitoba and Nova Scotia, investigation may be initiated upon complaint by the aggrieved person or upon the initiative of the director appointed under the Act. In addition, in Manitoba any person may file a complaint on behalf of the aggrieved person. The provisions of the Saskatchewan Act require the director, where he receives a directive from the Minister or a request from the aggrieved person, to advise the Human Rights Commission of the complaint and to request the commission to conduct a formal inquiry into the matter.

In the federal, Ontario and Nova Scotia jurisdictions, and the Yukon Territory, enforcement no longer depends solely on a formal complaint. The equal pay provisions are enforced through inspection by the field staff of the respective Departments of Labour.

A complaint is to be registered in Newfoundland, New Brunswick and Prince Edward Island with the Minister of Labour (of Manpower and Industrial Relations in Newfoundland); and in British Columbia, Manitoba and Saskatchewan with a designated officer of the Department of Labour (the Director). In Alberta, complaints are made to the Human Rights Commission. The Alberta and British Columbia legislation impose a six-month time limit for making a complaint. In the Northwest Territories a complaint is made in writing to an officer appointed by the Commissioner to inquire into complaints made under the Fair Practices Ordinance.

In all jurisdictions, except Ontario, Nova Scotia and the federal industries, the legislation provides for an initial informal investigation into a complaint, usually by an officer of the Department of Labour. In Alberta, such an investigation is made by the Human Rights Commission.

In Newfoundland and New Brunswick, if the person designated to make the inquiry is unable to settle the matter, a board or commission of one or more persons may be appointed. In Newfoundland the commission is called the Human Rights Commission. (In Newfoundland, the Minister may, in addition, appoint a commission when he deems it desirable to have an inquiry made into any matter within the purview of the Act.)

In Alberta, the Human Rights Commission will refer a complaint that is not settled under the initial investigation to a Board of Inquiry (appointed by the Minister) to investigate the matter. In Saskatchewan, the director may refer the matter to the Human Rights Commission, a permanent body established under the Act. In Alberta the Commission may dismiss a complaint at any stage of proceedings if it is of the opinion that it is without merit. Under the Manitoba Act, the second stage of the procedure is the appointment of a referee, who may or may not be an officer of the Department of Labour. In Prince Edward Island, the Minister must inquire into the matter if it is not settled at the earlier stage.

The board, commission, ad hoc committee, referee or Minister is given full powers to conduct a formal inquiry. All the Acts provide that the parties to the complaint must be given an opportunity to present evidence and to make representations.

The recommendations of the board, commission, committee or referee, as the case may be, may be put into effect by an order of the Minister except the Alberta, British Columbia and Saskatchewan Acts. Under the Alberta Act, the recommendations of the board are made to the Commission. If the Commission is unable to effect a settlement on the course of action to be taken with the person against whom the finding was made, the Commission must deliver all material pertaining to the complaint to the Attorney General who may apply to the Supreme Court for an order. The Human Rights Commission

must issue an order and in Saskatchewan it may issue an order if it finds that there has been a contravention of the Act. In Prince Edward Island, if the Minister finds the complaint to be justified, he must direct the course of action that ought to be taken and may issue an order to carry out the course of action into effect. Under all the Acts, compliance with the order is required.

In Newfoundland, the order of the Minister may be appealed to the Supreme Court. Under the Alberta Act, a decision of the board of inquiry may be appealed to the Supreme Court. An appeal of a decision or order made by the Saskatchewan Human Rights Commission may be made to a judge of the Court of Queen's Bench.

In British Columbia, where the Director is unable to settle an allegation, he shall make a report to the Minister of Labour who may refer the allegation to a board of inquiry. The board may issue an order to pay the wages lost as a result of the contravention. This order may be enforced by filing it in the Supreme Court of the province.

In Saskatchewan, where the Human Rights Commission finds that a contravention of the Act has been made it may order compliance with the provisions including the payment of compensation to the aggrieved party for previous service that was the subject of the complaint. Every person who violates the provisions of the federal Act is guilty of an offence and is liable on summary conviction to a fine, imprisonment, or both. The employer may also be directed to pay arrears of wages to which the employee was entitled. In Alberta the judge may order compensation for the person discriminated against for all or any part of any wages or income lost or expenses incurred by reason of the discriminatory action.

In Ontario, an employment standards officer has the authority to determine the amount of wages owing to an employee, where in his opinion an employer has contravened the equal pay provisions. The officer may issue an order to the employer to pay forthwith to the Director in trust any wages to which an employee is entitled.

Under the wage collection procedure of the Employment Standards Act, the Director is empowered to collect unpaid wages for an employee up to a maximum of

\$4,000 and the employer is subject to a penalty of 10 per cent of the amount owing. An employer who has paid the wages and penalty as required, has the right to apply to the Director for a review, whereupon a referee designated by the Director is required to hold a hearing, giving the employer full opportunity to make submissions, and to decide the amount owing to the employee. The decision of the referee is final and binding.

In Nova Scotia where the Director of Labour Standards finds that an employer has not paid equal wages, he may direct the employer to pay the amount due to the employee to the Labour Standards Tribunal. If he disputes the direction, the employer may apply to the Tribunal for a determination of the amount. If the Tribunal finds the employer is indebted to the employee, it must order the employer immediately to pay over to the Tribunal the amount of pay found to be unpaid. The person to whom the order is directed must forthwith comply with the order.

In the Northwest Territories, if settlement is not reached through conciliation, the officer must recommend to the Commissioner the action that should be taken with respect to the complaint. The Commissioner may issue whatever order he thinks necessary to put the recommendations into effect. A person affected by the order may appeal it within 10 days to a judge of the Territorial Court, whose decision is final.

In the Yukon, where the employer has not paid the wages required, the Labour Standards Officer may determine the amount owing the employee and such amount shall be deemed to be unpaid wages. Where the officer is unable to effect a determination, the matter is referred to the Advisory Board for investigation. The Board, upon review of the matter recommends what action should be taken.

Provision is made in all the Acts for prosecution in the Courts as a last resort. Failure to comply with the Act or an order is made an offence punishable by a fine. In Newfoundland and Saskatchewan, the convicting magistrate must order the payment of wages due, in addition to imposing a fine. Under the federal Act, an employer convicted of an offence under the Act may, in addition to any other penalty, be made liable for payment of wages found to be due.

Each of the Acts, except the Female Employees Fair Remuneration Act of New Brunswick, make it an offence for an employer to dismiss or otherwise discriminate against an employee because he has made a complaint or given evidence under the Act.

A number of the laws provide that a person claiming to be aggrieved by an alleged contravention of the Act has a choice of initiating court proceedings or making a complaint. Some Acts stipulate that the right of an employee to take any other proceeding for recovery of wages to which he is entitled is not barred by reason of any remedy provided for in the Act.

HOURS OF WORK

FEDERAL

Hours of work of employees in undertakings within the federal labour jurisdiction are regulated by the Canada Labour Code, Part III, Division I.

The Code sets a standard workday and workweek and requires payment of an overtime rate for work done beyond the hours specified. It also establishes a maximum workweek, overtime hours being restricted to 8 in a week, except in special circumstances.

Under the Code, standard hours (the number of hours that may be worked at regular rates of pay) are limited to 8 in a day and 40 in a week. Hours in excess of 8 and 40 may be worked, however, provided one and one-half times the regular rate is paid, up to a maximum of 48 hours in a week.

In a week in which an employee is entitled to a general holiday with pay (under Part III, Division IV of the Code) the overtime rate is to be paid after 32 hours, instead of 40. In calculating overtime for the week, no account is to be taken of any time worked on the holiday.

Because some types of employment may call for a more flexible arrangement of working hours, the Code permits the averaging of hours over a period of two or more weeks. Under a system of averaging, working hours may vary from day to day or from week to week so long as the total standard hours do not exceed 40 multiplied by the number of weeks in the averaging period. The overtime rate (one and one-half times the regular rate) must be paid at the end of the averaging period for all hours worked in excess of such standard hours. The total number of hours that may be worked by an employee in an averaging period is the product of the number of weeks in the period multiplied by 48.

Averaging is permitted for any class of employees who have no regularly scheduled working hours or who have regular hours but the number of hours scheduled differs from time to time. On notification to the Department of Labour, an employer may select an averaging period of 13 weeks or less.

If an employer requires a longer period for averaging than 13 weeks in order to provide for a period

in which fluctuations take place (e.g., where there are seasonal rush and slack periods during the year), he must obtain the approval of the Minister of Labour. The same conditions apply as to a period of 13 weeks or less. The period over which hours may be averaged may be as long as a full year.

An employer who has adopted an averaging plan is required to post clear information about the plan in places where it can readily be seen by the employees affected.

When an employee terminates his employment of his own accord during an averaging period, he is paid his regular rate for his hours worked but he is not entitled to overtime pay. If this employment is terminated by the employer, however, he must be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.

Exceptions from the maximum workweek are permitted in certain circumstances. Work in excess of 48 hours in a week (or the maximum hours established in an averaging period) may be allowed under permit, when the Minister, having given due regard to the conditions of employment and the welfare of the employees, is satisfied that such exceptional conditions exist as to make the working of additional hours necessary.

A permit is issued for a definite period of no longer duration than the time the exceptional circumstances are expected to continue. The permit may specify either the total amount of excess overtime that may be worked in the period or the additional number of hours per day or per week that the employees may work. The number of employees engaged in such excess overtime and the extent of the overtime worked by each must be reported in writing to the Minister within 15 days after the overtime permit expires or within a time fixed in the permit.

Maximum weekly hours may also be exceeded to make up for the time lost due to an accident, breakdown in machinery or other emergency. The employer is required to report such emergency work within a specified time.

In order to deal with the special problems of some industries, regulations may be made, after public inquiry, varying the standard and maximum hours for

classes of employees in any specified establishment where the Code provisions would be unduly prejudicial to the interests of the employees or seriously detrimental to the operation of the establishment, or entirely exempting a class of employees from the hours provisions where they cannot reasonably be applied.

Regulations may also be made specifying the circumstances under which the overtime rate will not apply because work practices make it unreasonable or inequitable. A general regulation issued under the Canada Labour Code provides for exemption from the overtime provisions in circumstances where there is an established work practice that requires or permits an employee to work in excess of standard hours for the purpose of changing shifts or permits an employee to exercise seniority rights to work in excess of standard hours pursuant to a collective agreement.

Different hours of work provisions have been established temporarily under the former deferment provisions of the Code for some industries, including shipping on the St. Lawrence River, the East Coast and Newfoundland.

PROVINCIAL

General Hours of Work Laws

Five provinces have Acts of general application regulating working hours (the British Columbia Hours of Work Act; the Alberta Labour Act, Part III, Division I; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, 1974, Part IV and the Saskatchewan Labour Standards Act, Part II).

The Acts of British Columbia, Ontario and Alberta set a maximum number of hours per day and per week beyond which an employee must not work. Hours are limited in British Columbia to 8 in a day and 44 in a week and in Ontario to 8 in a day and 48 in a week. Maximum hours of work in Alberta are limited to 8 in a day and 44 in a six day week. The weekly hours of work may be varied to provide for an average of 44 per week in each consecutive four-week period, provided that the total number in any one week does not exceed 48 hours.

All three laws provide for exceptions in certain circumstances. Exceptions are authorized in orders or regulations or through the issuing of a permit. In both Alberta and British Columbia, the administrative board has authority not only to permit working hours to exceed statutory limits but also to fix the minimum wage payable for overtime. In both provinces the board has made special orders for a considerable number of industries, permitting variations from the daily and weekly hours specified in the Act for exempting workers entirely from hours limitations.

In Ontario, the Director of Employment Standards may, by permit, authorize hours of work in an establishment in excess of 8 and 48, subject to specific limits laid down in the Act. The limit for overtime is 12 hours in a week for an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman, or any other person who, in the opinion of the Director, is engaged in a similar occupation. For all other employees the limit for excess hours is 100 hours in each year for each employee.

The Director may also issue a permit authorizing working hours in excess of the overtime limits set out above, if he is satisfied that the nature of the work or the perishable nature of the raw material being processed requires the excess hours.

Subject to certain exceptions set out in the regulations, one and one-half times the regular rate must be paid for work done, under permit, beyond 48 hours in a week. As of January 1, 1975, overtime shall be paid for work done beyond 44 hours. The employee's regular rate of pay must not be reduced in complying with this requirement.

Taxi drivers, and ambulance drivers and their helpers are not entitled to overtime pay. In certain industries -- highway transport, local cartage, road building, sewer and watermain construction, the hotel, motel, tourist resort, restaurant and tavern industry (seasonal employees) and fruit and vegetable processing (seasonal employees) -- extended hours, 50, 55 or 60, as the case may be, may be worked before the overtime rate applies.

The Manitoba and Saskatchewan Acts set standard hours as opposed to maximum hours. They do not limit the hours which may be worked in a day or in a week but require the payment of time and one-half the regular rate after 8 hours in a day and 40 hours in a week in Saskatchewan and 8 hours in a day and 44 hours in a week in Manitoba. To prevent the working of excessively long hours, the Saskatchewan Act empowers the Lieutenant Governor in Council to limit daily hours in any occupation to 12, except in special circumstances or when permission to work longer hours has been obtained from the Minister of Labour.

The Manitoba and Saskatchewan laws also provide for exceptions. The Manitoba law permits working hours to be varied in certain circumstances without payment of the overtime rates. The Manitoba Labour Board must review once a year any orders it makes under this authority. The Lieutenant Governor in Council may, by order in council, declare that a state of public emergency exists or where a Royal Proclamation is issued under the Emergency Measures Act, and during the time that the emergency exists the provisions relating to overtime rates shall be and remain suspended. In Saskatchewan, regulations permit hours to be averaged over a specified period, thus allowing some variation from week to week. Certain classes of employees have been entirely exempted from the Act, with the result that these classes have no entitlement to overtime pay.

Under all the Acts, there is provision for working daily hours in excess of 8 in order to establish a compressed work week, so long as weekly hours are not exceeded. There is also provision, except in Saskatchewan, for hours to be exceeded in emergencies.

The standards set under hours of work laws and the application of each Act in general terms are set out in Table 7.

The Nova Scotia provisions respecting hours of work are incorporated in the Labour Code. The Minimum Wage Board is empowered, after investigation and subject to the approval of the Lieutenant-Governor in Council, to issue orders determining the daily or weekly hours of work for persons employed in industrial undertakings. Currently the maximum hours per week are set at 48. The number of hours of work per day and/or per week may be varied in certain cases. The hours per day may vary provided that the total hours per week do not exceed the

standard set by the Board. In addition, the hours of work may be exceeded in case of accident, urgent work, or "force majeure", but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking. The hours of work limit may also be exceeded where shift work is required.

THE TERRITORIES

The Mining Safety Ordinances of both Territories provide for a maximum eight-hour day for work below ground in mines.

Under the Labour Standards Ordinance of the Northwest Territories, standard hours of work are 8 in a day and 44 in a week for most employees. Except in special circumstances, maximum hours are 10 in a day and 54 in a week.

Different standards are laid down for certain classes of employees. Standard hours of 191 in a month have been established for persons employed in exploration and development of metal mining and petroleum (including geophysical, geological, seismological and diamond drilling work), the transport of goods to and from isolated areas, and in tourist camps. For these employees, maximum hours are 234 in a month.

In the Yukon Territory, standard hours are 8 in a day and 48 in a week except for employees in shops, for whom standard hours of 8 in a day and 44 in a week are established. "Shop" is defined as an establishment where wholesale or retail trade is carried on or where services are dispensed to the public for profit. Maximum hours of work permitted are 10 in a day, 60 in a week and 260 in a month. Overtime beyond the limits of 8 and 48 hours is prohibited for employees engaged in mining operations underground in a shaft or tunnel.

In all cases where an employee is required or permitted to work in excess of standard hours, he must be paid one and one-half times his regular rate.

Averaging of hours over a period of two or more weeks is permitted under both Ordinances. The manner and circumstances in which averaging may be allowed are to be prescribed by regulations.

Exceptions from maximum hours are permitted in certain circumstances. Where work in an industrial establishment is seasonal or intermittent in nature, the Commissioner, after having considered the nature of the establishment, the conditions of employment and the welfare of the employees, may issue an order permitting excess hours to be worked.

In the Northwest Territories, hours in excess of maximum hours (10 and 54 or 234, as the case may be) may be worked with a permit issued by the Labour Standards Officer, when the applicant has satisfied him that there are exceptional circumstances to justify the working of additional hours.

Under both Ordinances, maximum hours may be exceeded in an emergency due to an accident, breakdown in machinery or other unpreventable circumstances. Details of such emergency work must be reported (in the Yukon, only upon request).

The hours of work provisions of the Yukon Ordinance do not apply to members of the employer's family, individuals who search for minerals, travelling salesmen, domestic servants, farm labourers, and supervisory and managerial employees. Members and students of professions and other persons or classes of persons may be excluded by regulations.

Persons employed as hunting or fishing guides are exempted from the hours of work provisions of the Northwest Territories Ordinance.

Other Legislation Restricting Hours

Apart from general hours of work laws, other statutes regulate working hours in some industries.

Schedules under industrial standards legislation in seven provinces and decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act regulate hours in construction and other industries. Schedules and decrees apply to designated zones; a number apply throughout the province.

Generally speaking, standard weekly hours for the construction industry range from 40 to 48, with a 40-hour week being the usual standard in the larger centres. In Québec, a 40-hour week is set for tradesmen, a 42½-hour week for labourers and a 50-hour week for road building.

In another industry regulated by schedules and decrees in Ontario and Québec, the garment industry, some standard weekly hours are 36 or 37½. In most branches of the industry, standard hours have been reduced to 35.

In Manitoba, maximum hours which may be worked at regular rates are set under the Construction Industry Wages Act, which applies to both private and public construction work. At the present time an 8-hour day and a 40-hour week is in effect for most classifications of construction work in the Greater Winnipeg area, and a 44-hour week in the rest of the province. In the heavy construction industry, the maximum hours of work payable at regular rates are 54 except in Metropolitan Winnipeg during the period from November 1 to April 30, when a 48-hour week is in effect.

Working hours of women and young persons are restricted by the New Brunswick Minimum Employment Standards Act and by factory legislation in two other provinces. Under the New Brunswick Minimum Employment Standards Act, which is applicable to any place of employment other than a private home or federal undertaking, hours of women and boys under 18 years are limited to 9 in a day and 48 in a week, unless special permission to work longer hours is obtained from the Minister of Labour. Québec factory law restricts hours of women and boys under 18 to 9 in a day and 50 in a week in factories and to 54 hours in a week in commercial establishments. In Saskatchewan, women and boys under 18 employed in factories are prohibited from working more than 48 hours in a week.

In Newfoundland, the Hours of Work Act limits working hours of shop employees anywhere in the province to 8 in a day and 40 in a week, unless one and one-half times the regular rate is paid.

In all provinces except Manitoba, Ontario and Saskatchewan, there is also some indirect regulation of hours by virtue of provisions in minimum wage orders requiring the payment of an overtime rate after a specified number of hours of work.

A general minimum wage order in British Columbia encompasses a number of special groups formerly governed by separate orders. The order covers the auto repair and gasoline service station industry; barbers and hairdressers; the construction industry; electronic technicians; outside employees in irrigation districts; the logging, sawmill, woodworking and Christmas tree industries; the trades of machinists, moulders, refrigeration and sheet metal; patrolmen; pipeline construction; ship and boat building; and stationary engineers.

The standard workweek under the general order is 40 in a week and 8 in a day. Maximum hours are set at 44 in a week and 8 in a day. Payment of time and one-half the regular rate is required after 8 hours in a day and in excess of 40 in a week excluding hours worked in excess of 8 in any one day. Employees working under a written permit from the Board of Industrial Relations or pursuant to an agreement confirmed by the Board with respect to hours of work must be paid time and one-half the employee's regular rate of pay for all hours worked in excess of a weekly average of 40 over the averaging period, excluding hours worked in excess of 8 in any one day.

In Saskatchewan, the Minimum Wage Board has no authority to fix overtime rates. All overtime pay requirements are laid down in the Labour Standards Act and orders under it. In Manitoba, overtime pay requirements are contained in Part III of the Employment Standards Act and regulations. In Ontario, overtime pay is required under the Employment Standards Act, 1974 and regulations.

A minimum wage order of considerable significance with regard to working hours because of its wide coverage is the General Minimum Wage Order 4 in Québec. Order 4 is a blanket order applying to all employees in the province except those covered by decrees, workers governed by special minimum wage orders, farm workers, domestic servants, and a few other minor groups. The minimum rates set by Order 4 apply to a standard workweek of 45 hours, after which an overtime rate of one and one-half times the minimum rate must be paid. A few classes of employees are excluded from these overtime provisions (e.g., fishing and harvesting industries and watchmen).

Night Work for Women

In Québec, under the Industrial and Commercial Establishments Act, women are permitted to work on the night shift under certain conditions.

The Act authorizes the Minister of Labour to grant a permit allowing women 18 and over to work on a third shift in an industrial establishment, if he is satisfied that the nature of production, market conditions and other special circumstances require it. Before ruling on an application for a permit, the Minister must request the opinion of the certified trade union.

Hours of work on the third shift may not exceed 8, and work must not begin before 11 p.m. or after midnight. A lunch break of at least 30 minutes must be allowed around the middle of the shift, and two rest periods of 10 minutes each must be granted in the intervals before and after the refreshment period. Wage rates for the night shift must not be less than those for the two other shifts, and if premium pay is given for night work, it must be paid to the women employees on the shift.

The employer must ensure the safety of women who leave work before 7 a.m. by providing them with convenient and safe transportation to their homes at his expense.

Regulations made under the Act lay down further conditions. At least one female supervisor, nurse or first aid attendant must be present on the night shift, and there must be at least two women besides the female supervisor in each workroom or workshop. A permit may not be issued for a period longer than a year. It may be revoked without notice for breach of any of the conditions under which it was issued.

In Ontario, no girl under 18 may work in an establishment between midnight and 6 a.m. If the work period of a female employee of 18 or over begins or ends between midnight and 6 a.m. her employer must provide her with private transportation at his expense from her residence to the place of work or from the workplace to her home. Provision is also made for eating periods of at least one-half hour. (As of January 1, 1975, the above provisions are rescinded.)

Manitoba minimum wage regulations contain a similar provision, requiring employers to provide women employees whose work begins or ends between midnight and 6 a.m. with adequate transportation, without cost to the employee, between the place of residence and the place of employment.

In Saskatchewan, women employees in hotels, restaurants, educational institutions, hospitals and nursing homes who are required or permitted to finish work between 12:30 a.m. and 7 a.m. must be provided by the employer with free transportation to their homes. Night work for women is prohibited in factories, except with a permit from the inspector.

7. Hours of Work

Jurisdiction	Standards Set	Application
Federal	Standard hours: 8, 40 after which $1\frac{1}{2}$ times the regular rate Maximum hours: 48	Federal industries Exclusions: managers, superintendents and professional employees Exceptions ¹
Alberta	Maximum hours: 8, 44 after which $1\frac{1}{2}$ times the regular rate	Most employees Exclusions: managerial and confidential employees, farm labour, domestic service, crown employees and municipal policemen Exceptions ¹
British Columbia	Maximum hours: 8, 44 Overtime at $1\frac{1}{2}$ times the regular rate in excess of 40 in a week and 8 in a day	Industries in Schedule (e.g., manufacturing, mercantile, catering, construction, mining, barbering, elevator operators, hotel clerks, truck drivers, bus operators) Exclusions: managerial and confidential employees Exceptions ¹
Manitoba	Standard hours: 8, 44 after which $1\frac{1}{2}$ times the regular rate	Most employees Exclusions: professional employees, farming, domestic service, fish- ing, construction, travelling salesmen and a few other classes of employees
New Brunswick	Maximum hours: Employees under 18 9, 48 Overtime: $1\frac{1}{2}$ times the regular rate after 44 hours	Most employees Exclusions: domestic service or farming Exceptions ¹

Jurisdiction	Standards Set	Application
Newfoundland	<p>Maximum hours: Shop Employees: 8, 40 Overtime: $1\frac{1}{2}$ times the regular rate in excess of 40 in a week and 8 in a day for shop employees. Other employees: $1\frac{1}{2}$ times the regu- lar rate after 48 hours</p>	<p>Most employees Exclusions: farming and domestic service</p>
Nova Scotia	<p>Maximum hours: 48</p>	<p>Most employees Exclusions: professional employees, farm labour, domestic servants, certain trainees, certain types of salesmen Exceptions¹</p>
Ontario	<p>Maximum hours: 8, 48 Overtime: $1\frac{1}{2}$ times regular rate after 44 hours on January 1, 1975</p>	<p>Most employees Exclusions: supervi- sory and managerial employees, professional employees, farm workers, domestic servants, construction, commercial fishermen, resident jani- tors or caretakers, and a few other classes of employees Exceptions¹</p>
Prince Edward Island	<p>Maximum hours: 48; Exceptions: employees in the food processing industry during harvest season - 60 Overtime: $1\frac{1}{2}$ times regular rate after 48</p>	<p>Most employees Exclusions: those covered by a labour- management agreement, registered apprentices, farm labourers</p>

Jurisdiction	Standards Set	Application
Québec	Standard hours: 45 after which 1½ times the regular rate is paid. (The fishing and harvesting indus- tries and watchmen are excluded from overtime provi- sions)	Most employees Exclusions: employees governed by decree, those covered by special minimum wage ordinances, farm workers, domestics and a few other minor groups
Saskatchewan	Standard hours: 8, 40 after which 1½ times the regular rate Special provisions are set for a 4- day week: 10, 40 after which 1½ times the regular rate is paid	Most employees Exclusions: northern area of province, managerial employees, farm workers, domestic servants, automobile salesmen, certain professions, commercial travellers, logging, road construction, certain handicapped employees, certain family members and a few other classes of employees Exceptions ¹
Northwest Territories	Standard hours: 8, 44 Maximum: 10, 54 Exception: mining and petroleum exploration; isolated transportation and tourist camps; 191 hours in a month, maximum 234 Overtime: 1½ times after standard hours	Most employees Exclusions: hunting or fishing guides

Jurisdiction	Standards Set	Application
Yukon Territory:	Standard hours: 8, 48 Shop employees: Standard 8, 44 Maximum: day, 10; week, 60; month, 260 Overtime: 1½ times regular rate after standard hours Note: Persons employed in mines not to work in excess of standard hours	Most employees Exclusions: members of the employer's family, prospectors, travelling salesmen, domestic servants, farm labourers and a few other minor groups

¹ Different standards set
by regulation for some
industries.

8. Overtime Rates

Jurisdiction	Overtime Rates
Federal	$1\frac{1}{2}$ times the regular rate after 8 or 40 hours
Alberta	$1\frac{1}{2}$ times the regular rate after 8 or 44 hours
British Columbia	$1\frac{1}{2}$ times the regular rate after 8 or 40 hours*
Manitoba	$1\frac{1}{2}$ times the regular rate after 8 or 44 hours
New Brunswick	$1\frac{1}{2}$ times the minimum rate after 44 hours*
Newfoundland	$1\frac{1}{2}$ times the minimum rate after 48 hours ¹ *
Nova Scotia	$1\frac{1}{2}$ times ² the minimum rate after 48 hours ² *
Ontario	$1\frac{1}{2}$ times the regular rate after 48 hours ³ (44 hours in 1975)
Prince Edward Island	$1\frac{1}{2}$ times the minimum rate after 48 hours ⁴ *
Québec	$1\frac{1}{2}$ times the minimum rate after 45 hours ⁵ *
Saskatchewan	$1\frac{1}{2}$ times the regular rate after 8 or 40 hours

Jurisdiction	Overtime Rates
Northwest Territories	1½ times the regular rate after 8 or 44 hours
Yukon Territory	1½ times the regular rate after 8 or 48 hours ⁶

*Set by minimum wage orders.

¹ Newfoundland--Not applicable to farm workers. Shop employees governed by Hours of Work Act, 1½ times the regular rate after 8 or 40 hours.

² Nova Scotia--Road building and heavy construction, and employees in transport industry required to be away from home base overnight, 1½ times minimum rate after 96 hours in two weeks.

³ Ontario--Highway transport, 1½ times regular rate after 60 hours; local cartage, 1½ times regular rate after 55 hours; road building, 1½ times regular rate after 50 or 55 hours, depending on class of work; watermain construction, 1½ times regular rate after 50 hours; seasonal employees not working more than 16 weeks in a year in fruit and vegetable processing industry and in hotel, motel, tourist resort, restaurant and tavern industry (in latter case, if provided with room and board), 1½ times regular rate after 55 hours.

⁴ Prince Edward Island--Seasonal food processing, 1½ times minimum rate after 60 hours.

⁵ Québec--Employees in fishing or fish processing, watchmen and employees engaged in fruit and vegetable picking and processing during the harvest season are not entitled to overtime pay; forest operations, 1½ times the minimum rate after 48 hours; sawmills, 1½ times the minimum rate after 50 hours; retail food trade, 1½ times the minimum rate after 40 hours.

⁶ Yukon Territory--Shop employees, 1½ times the regular rate after 8 or 44 hours.

WEEKLY REST-DAY

The Canada Labour Code (Section 31) provides that employees must be given at least one full day of rest in the week, on Sunday, wherever possible.

Two exceptions from this general rule are provided for in the regulations. A weekly rest-day does not need to be granted where working hours are averaged over a specified period.

Where working hours in excess of 48 in a week are allowed under a permit from the Minister of Labour, the Minister may specify in the permit that a weekly rest need not be scheduled, as required by the Code, and may prescribe alternative periods of rest.

Six provinces -- Alberta, British Columbia, Manitoba, New Brunswick, Québec and Saskatchewan -- provide for a weekly rest-day but the provisions vary in scope. These provisions are applicable to most employees within each jurisdiction whereas the weekly rest-day provisions in Newfoundland, Nova Scotia and Ontario are restricted to a few groups of employees.

The Alberta Labour Act requires all employed persons except farm workers and domestic servants to be given a day of rest in each consecutive period of seven days, unless the Board of Industrial Relations orders that the hours of rest be allowed in two periods or that a longer period than 24 hours be granted. The Act enables the Board to make special provisions for days of rest in industries which ordinarily operate at least one shift on each day of the week, and permits a consecutive rest period to be granted every four weeks or in relation to some other work period which the Board considers proper. The Board has made special provision for accumulated days of rest in the highway and railway construction, geophysical exploration, land surveying, brush clearing, oil well drilling, oil well service and pipeline construction industries, for employees of rural municipalities engaged in road work, and for cooks, night watchmen, etc., in lumber camps.

The general order under the British Columbia Minimum Wage Act provides for a rest period of 32 consecutive hours weekly. This order applies to most employees not covered by special orders. Farm labourers

and domestic workers are not covered by these provisions. The orders governing the logging, sawmill, woodworking and Christmas tree industries, shipbuilding, first aid attendants, patrolmen employed by private agencies, taxi-cab drivers, resident caretakers and funeral parlours also require a 32-hour rest period to be granted. Different arrangements may be made on application of the employer and employees concerned, if the Board of Industrial Relations approves.

In Manitoba, the Employment Standards Act provides that a weekly day of rest, if possible Sunday, must be granted to most employees. Exempted are farm workers; independent contractors; persons employed in agriculture, fishing, fur farming, dairy farming or growing of horticultural or market garden products for sale; domestics in a private home; specified volunteer workers; beneficiaries under a rehabilitation or therapeutic project given employment; students of professions; professionals; watchmen, janitors and firemen living in the building in which they are employed; managers and supervisory employees; repair workers in emergencies; and persons employed for not more than three hours on a weekly rest-day merely for the purpose of looking after horses as part of their usual duty. The Minister of Labour is given discretion to exempt a particular undertaking from the application of weekly rest provisions for a fixed period or indefinitely. Where a plant is exempted, each employee must be given an additional holiday without pay for each weekly day of rest to which he would have been entitled except for the permit of exemption, and the holidays may be accumulated.

Under the Newfoundland Weekly Day of Rest Act, an employer is required to grant his employees a weekly rest period of at least 24 consecutive hours, wherever possible on Sunday. The requirement does not apply to employees engaged in emergency work, or to persons employed solely in senior managerial capacities, as defined by regulation. The latter group has been defined to include managers, superintendents, supervisory personnel who themselves are not supervised, and members of specified professions.

Any employer or class of employers may be exempted by regulations, subject to such conditions as may be prescribed. Currently excluded are employers operating in remote areas whose employees have given the employer written notice that they do not wish a rest period; employees engaged in catching, handling and processing herring; and certain other narrowly defined groups in the fishing, pulp and paper and mining industries.

The Minister of Manpower and Industrial Relations may grant a permit exempting an employer from compliance with the Act for a period not exceeding 30 days in case of accident, urgent and necessary work to be done to premises or equipment, abnormal pressure of work, or danger of loss of perishables. The Minister may cancel or renew a permit and there is no restriction on the number of permits or renewals that may be granted to an employer. Where a permit is issued, an employee accumulates a period of holidays equivalent to the missed rest periods, with or without pay, in conformity with the pay provisions applicable to the missed rest periods. The employer must allow the accumulated holidays to be taken within 30 days of the expiry or the renewal of a permit.

The Newfoundland Hours of Work Act, which applies to shops throughout the province, requires shop assistants to be given a day off each week in addition to Sunday, except in the weeks in which one of the eight general holidays occurs. In the weeks in which one of the five other specified holidays occurs, they must be given a day off in addition to Sunday and the holiday.

The New Brunswick Minimum Employment Standards Act requires employers to give their employees a weekly rest of at least 24 consecutive hours, to be taken if possible on Sunday. Where a weekly rest is impracticable, the Minister of Labour may permit rest periods to accumulate and to be taken later, either part at a time or all together. The only employees not covered are farm workers, domestic servants, employees required to cope with an emergency and part-time workers who are not usually employed more than five hours in a day. Certain groups of employees may be designated by the Lieutenant Governor in Council as being outside the scope of the Act.

In Nova Scotia, employees in industrial undertakings (e.g., mining, manufacturing, construction) must be granted a rest period of at least 24 consecutive hours in every period of 7 days, preferably to all employees simultaneously on Sunday. This provision may be exceeded in continuous processes.

In Ontario, in cities of 10,000 or more people, workers in hotels and restaurants must be allowed a weekly rest-day, Sunday if possible. Watchmen, janitors, foremen, and those employed for five hours or less in a day are exempted.

In Québec, Minimum Wage Order 4, applying generally to all industries within the scope of the Act not covered by special orders, provides for a weekly rest of at least 24 consecutive hours for the employees covered by its provisions. Farm workers, domestic servants and employees covered by decrees under the Collective Agreement Decrees Act are the only workers not within the scope of the Minimum Wage Act. The four special minimum wage orders also provide for a weekly rest of 24 consecutive hours. A regulation under the Québec Weekly Day of Rest Act, states that persons employed in hotels, restaurants or clubs in places of at least 3,000 population must have 24 consecutive hours of rest in a week. In the Québec district, the inspector may permit two periods of 18 hours each instead of one 24-hour period. Where there is only one cook, the 24-hour rest may be replaced by two 12-hour periods.

The Saskatchewan Labour Standards Act provides for a weekly rest of at least 24 consecutive hours, wherever possible on Sunday. Exempted are workers employed in farming, ranching or market gardening, domestic servants, firemen, managerial employees, family employees employed in family undertakings and employees who are not usually employed for more than five hours in a day. The Minister of Labour may by permit exempt an employer from compliance with the weekly rest requirement for a specific period not exceeding one year. Any class of employers or employees may be excluded by regulations of the Lieutenant Governor in Council, subject to such conditions as may be prescribed.

The Labour Standards Ordinances of both the Northwest and Yukon Territories provide that, unless an exception is made by regulations, employees must be given at least one full day of rest in each week, and that the normal day of rest must be Sunday wherever practicable.

ANNUAL VACATIONS WITH PAY

The Canada Labour Code, Part III, Division III provides for a vacation with pay of at least two weeks in respect of every year of employment. Vacation pay is four per cent of wages for the year in which the employee establishes his claim to a vacation.

A year of employment, under the federal law, must be continuous with one employer, and may be a 12-month period commencing with the day the employee began to work for the employer or any subsequent anniversary of that date, or it may be a calendar year or another year approved by the Minister of Labour.

All provinces have annual vacation legislation. The provisions regarding annual vacations with pay are contained in the Alberta Labour Act, Part III, Division 2, and in two orders under it (a general order and a special order for the construction industry); in the Ontario Employment Standards Act, 1974, Part VIII and regulations; in Québec Minimum Wage Order 3; in the Saskatchewan Labour Standards Act, Part I, and regulations; and in the Prince Edward Island Labour Act. British Columbia provides for annual vacations with pay and public holidays in one statute, the Annual and General Holidays Act. Manitoba, New Brunswick and Newfoundland have separate annual vacations laws. The Nova Scotia Labour Standards Code contains the vacation with pay provisions. Vacation with pay provisions are also contained in most decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act. Some industrial standards schedules make provision for pay in lieu of annual vacations.

Labour Standards Ordinances cover annual vacations for the two territories, consisting of at least two weeks per completed year of employment.

The Canada Labour Code applies to industries within federal jurisdiction and the only employees excluded are those who are managers or superintendents or who exercise management functions, and members of the medical, dental, architectural, engineering and legal professions.

The provincial and territorial laws govern employees in employment within the jurisdiction of the province, with the exception of the classes of employees noted below. The Newfoundland Act provides for the

exemption of employees or classes of employees by order of the Lieutenant-Governor in Council. No regulations have yet been made.

Farm workers are excluded in all jurisdictions except Newfoundland and the Northwest Territories. In addition, British Columbia excludes persons employed in horticulture, and Manitoba and Saskatchewan, those employed in ranching and market gardening. (In Alberta, Ontario, Prince Edward Island and Nova Scotia, workers in certain occupations related to farming are covered. Similarly in Saskatchewan, the Act applies to egg hatcheries, green houses and nurseries and bush clearing operations, and in Manitoba to landscape gardening and growing flowers, plants, ornamental shrubs and trees). Domestic servants are exempted in all provinces except Newfoundland, Prince Edward Island and Saskatchewan. Certain provisions of the Saskatchewan Act do not apply to employees employed in an undertaking in which only members of the employer's family are employed. Certain categories of employed students are excluded in Ontario and Québec. Also excepted are workers employed in commercial fishing in Nova Scotia, Ontario and the Northwest Territories.

Professional workers are excluded in British Columbia, Nova Scotia and Ontario. Salesmen paid entirely by commission and other special categories of salesmen, such as real estate and insurance agents are outside the scope of the Alberta and Nova Scotia vacation provisions. These same two provinces exclude real estate salesmen. Persons working outside an employer's establishment and without possible control over the number of days per week spent at their work are excluded from the Québec vacation order. Part-time workers employed 24 hours or less in a week are not covered in New Brunswick or Prince Edward Island; and those employed for eight hours or less in a week are exempted from the Alberta order. Nova Scotia also specifically excludes teachers.

The large group of workers governed by collective agreement decrees are outside the scope of the Québec vacation order. Workers governed by a collective agreement in British Columbia are exempted from the Act if the Minister of Labour approves the vacation provisions of the agreement.

The length of the vacation period and the vacation pay requirements in the various jurisdictions are shown in Table 9.

In Saskatchewan, the earliest date on which an employee with less than 5 years of service with the same employer can be entitled to 3 weeks annual vacation is May 1, 1975. Effective July 1, 1974, an employee with 14 years of service will be entitled to a 4-week vacation. During the following four years the length of the qualifying service would diminish by one year; thus after July 1, 1978, the entitlement to a 4-week vacation would be earned after 10 years and each subsequent year of employment.

As indicated in the table, Alberta and Manitoba require the payment of regular pay for the vacation period. Regular pay means the pay the employee would have earned for his normal hours of work during the vacation period and includes the cash value of board and lodging, where provided.

In the other jurisdictions, vacation pay is a percentage of the employee's earnings for the period during which he establishes his right to a vacation. The Acts vary in what is included as earnings.

In Québec, if a worker has not completed a year's service for the same employer, he is entitled to a continuous vacation of one day for each working month. Similarly, in Saskatchewan, regulations provide that, in order to make the vacation entitlement date of his employees uniform, an employer may grant to an employee with less than a year's service a continuous vacation of one day for each month of employment. The Board of Industrial Relations in Alberta may, in making a vacation pay order, require an employer to give an employee who has not completed a year of employment a vacation in proportion to the time worked.

Most of the laws specify the working time constituting a year of employment. In British Columbia and New Brunswick, a year's service consists of not less than 225 working days (in New Brunswick, working days or shifts). In Manitoba, an employee is held to have completed a year's service if he has worked not less than 95 per cent of the regular working hours during a continuous 12 month period. In Alberta, Newfoundland, Nova Scotia and Prince Edward Island, the employee must have worked 90 per cent or more of the working time during the year (of the regular working days in the establishment in Alberta and of regular working hours in Newfoundland, Nova Scotia and Prince Edward Island). In the Territories a "year of employment" is defined as

continuous employment of an employee by one employer for a period of 12 consecutive months beginning with the date employment began or any subsequent anniversary date.

Where an employee has worked less than the prescribed working time for a year's continuous service and continues to work for the same employer, he is entitled to a vacation on a pro rata basis in Alberta, and to accrued vacation pay for the period worked during the year in British Columbia, Manitoba, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island, Northwest Territories and the Yukon Territory. The vacation pay is payable in New Brunswick and Prince Edward Island not later than the next regular pay period after the end of the vacation pay year; in Manitoba, on the anniversary date of the workman's employment; in Newfoundland, within a week after the anniversary date; and in the other two provinces, within a month after the anniversary date.

The employer may determine the time when each of his employees may take the annual vacation to which he is entitled, within certain limits laid down by law. The vacation must be given in New Brunswick not later than 4 months after June 30; in Manitoba and Saskatchewan within 10 months, and in the federal jurisdiction, British Columbia, Newfoundland, Nova Scotia, Ontario and Prince Edward Island not later than 10 months after the date on which the employee becomes entitled to a vacation; in Québec within 12 months, and in Alberta not later than 12 months after the date of entitlement. In the Yukon and Northwest Territories, the vacation must be granted not later than 10 months after the date on which the employee becomes entitled to it. Vacation pay must be given at least one day before the vacation is to begin or at an earlier date, if the regulations so prescribe.

Nine jurisdictions require an employer to give notice to the employee of when his vacation is to begin. The minimum period of notice required is one week in Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island; two weeks in the federal jurisdiction and Saskatchewan; 15 days in Manitoba; and 16 days in Québec. Under the Canada Labour Code, and in Manitoba, Newfoundland and Saskatchewan, another period of notice may be substituted by agreement. In Alberta, the employer must give the employee one week's notice, if agreement cannot be reached regarding the date on which the vacation is to commence.

An employer in a federal undertaking is required to pay his employees their vacation pay during the 14 days before the beginning of the vacation, except in cases where it is impracticable to do so and the custom of the establishment is to pay vacation pay on the regular payday during or immediately following an employee's vacation. Most of the provincial laws require vacation pay to be paid at least one day before the vacation begins. The Québec order simply states that vacation pay is to be paid before the employee's departure on vacation. In Saskatchewan, an employer must pay an employee his pay during the 14 days immediately preceding the beginning of the vacation.

The Canada Labour Code and several of the provincial laws stipulate that an employee's annual vacation is to be extended by one day in lieu of a general holiday that occurs during the vacation. (In Manitoba, Newfoundland and Saskatchewan, a general holiday is defined as a day for which he is entitled to be paid wages without being present at work). The federal and Saskatchewan laws provide further that for the extra day the employee is to be paid the wages to which he is entitled for the holiday.

The Yukon Ordinance provides that, if a general holiday occurs during an employee's vacation, the vacation is to be extended by one day in lieu of the holiday, and that the employee must be paid the wages to which he is entitled for the holiday, in addition to his vacation pay. The Northwest Territories Ordinance states that, where a general holiday occurs during an employee's vacation, the vacation is not to be extended, and no additional holiday or wages must be given to the employee.

Under the Canada Labour Code and all the provincial laws, workers are entitled to vacation pay on termination of employment during the working year. In most jurisdictions vacation pay must be paid immediately on termination of employment. In Ontario and Newfoundland, vacation pay is payable on termination or within one week; in Nova Scotia, within 10 days; in New Brunswick and Prince Edward Island, by the next regular payday following termination of employment and in Saskatchewan within 14 days of termination. In Newfoundland, if the employee is not entitled to an annual vacation he shall receive his pay within two pay periods or one month of his vacation whichever is earlier.

In Alberta, employers in the construction industry must give each employee (except office staff) vacation credits at the end of each regular pay period. The vacation credits (4 per cent of the employee's regular earnings) are to be recorded in the employer's pay roll. The employee must be given the amount of money equivalent to his accrued vacation credits on December 31 or on termination of employment. If he is entitled to an annual vacation, he must be paid his vacation pay the day before his vacation commences.

In both Territories when employment is terminated during a year, the employee is entitled to any vacation pay owing to him in respect of a previous completed year of employment and to four per cent of his wages for the period he has worked during the year. An employee is not entitled to vacation pay, however, unless he has been continuously employed for 30 days or more.

When a business changes hands, an employee is considered to have been in continuous employment before and after the transfer.

The Yukon Ordinance excludes from its annual vacation provisions employees who are members of the employer's family.

9. Annual Vacation & Vacation Pay

Jurisdiction	Length of Annual Vacation	Vacation Pay
Federal	2 weeks	4% of annual earnings
Alberta	2 weeks	regular pay
British Columbia	2 weeks	4% of annual earnings
Manitoba	2 weeks; 3 weeks after 5 years' service	regular pay
New Brunswick	2 weeks	4% of annual earnings
Newfoundland	2 weeks	4% of annual earnings
Nova Scotia	2 weeks	4% of annual earnings
Ontario*	2 weeks	4% of annual earnings
Prince Edward Island	2 weeks	4% of annual earnings
Québec	2 weeks	4% of annual earnings
Saskatchewan**	3 weeks; 4 weeks after 14 years	3/52 of annual earnings

Jurisdiction	Length of Annual Vacation	Vacation Pay
Northwest Territories	2 weeks	4% of annual earnings
Yukon Territory	2 weeks	4% of annual earnings

* Ontario established new provisions effective
January 1, 1974

**The earliest date on which an employee with
less than 5 years of service with the same
employer can be entitled to 3 weeks annual
vacation is May 1, 1975. Staged reduction
to result in 4 weeks after 10 years as of
July 1, 1978.

GENERAL HOLIDAYS

The federal jurisdiction, six provinces -- Saskatchewan, Alberta, British Columbia, Manitoba, Nova Scotia and Ontario -- and the two territories, have legislation of broad application dealing with paid general holidays.

Federal

Under the Canada Labour Code, Part III, Division IV, eight general holidays in a year are to be observed as paid holidays -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Code provides also that, under certain conditions, an alternative holiday may be substituted for any of the eight holidays specified.

Should a holiday occur on a day on which an employee does not normally work, he must be granted a day off with pay in lieu of the holiday, either at a time convenient to him and his employer or by the addition of a day to his annual vacation.

If Christmas, New Year's Day, Dominion Day or Remembrance Day fall on a Saturday or Sunday that is a non-working day for an employee, he must be given a holiday with pay on the working day immediately before or after the general holiday. These provisions regarding alternative days off do not apply, however, to employees covered by a collective agreement that entitles them to at least eight paid holidays a year.

The Code lays down the general principle that an employee in a federal undertaking who does not work on a holiday is entitled to his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of the wages he would have earned at his regular rate for his normal working day. The regular rate of wages for an employee whose hours of work vary from day to day or who is paid other than on an hourly or daily basis is the average of his daily earnings, exclusive of overtime, for the days he worked during the four weeks immediately preceding the holiday, or an amount calculated by the method established by the collective agreement.

An employee in a federal undertaking who is required to work on a general holiday is entitled to his regular wages for the day, and in addition, to time and one-half his regular rate for all time worked. In effect, he is paid two and one-half times his usual rate.

These holiday provisions do not apply to superintendents, managerial employees or members of designated professions.

Different provisions apply to employees employed in continuous operations who are required to work on a holiday. A "continuous operation" is defined to include any industrial establishment in which in each 7-day period operations normally continue without cessation until the end of the regularly scheduled operations for that period; the operation of trains, planes, ships, trucks and other vehicles; telephone, radio, television, telegraph or other communication or broadcasting services; or any other operation normally carried on without regard to Sundays or holidays.

An employee who works on a holiday must be paid his regular wages for the day and must, in addition, be paid time and one-half his regular rate for the time worked. Further, he must be granted a holiday with pay at some other time, either a day added to his annual vacation or another day convenient to him and his employer, or, where a collective agreement so provides, be paid for the holiday on his next non-working day.

There are some situations in which an employee is not entitled to holiday pay. An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment with an employer, but if he is required to work on a holiday he must be paid time and one-half his regular rate. If he is employed in a continuous operation, he may be paid at his regular rate for work done on a holiday.

A further exception is that an employee is not entitled to pay for a general holiday on which he does not work if he is not entitled to wages for at least 15 days during the 30 calendar days immediately preceding the holiday. An employee in a continuous operation is not entitled to pay for a general holiday if he did not report for work in response to a call from the employer, or if he makes himself unavailable for work in accordance with the conditions of employment prevailing in the establishment in which he works.

A general regulation provides that a longshoreman employed by an employer who is a member of a "multi-employer unit" is entitled to holiday pay if he is entitled to wages for at least 15 days or 120 hours in the 30 calendar days immediately preceding a general holiday. Pay for the holiday may not be less than eight times the employee's basic hourly wage rate.

A longshoreman employed by an employer who is not a member of a "multi-employer unit" must be paid, on each payday, in lieu of general holidays, an amount equal to 3 per cent of his basic wage rate multiplied by the number of hours he has worked for the employer in the pay period.

An employee who is required to work on a general holiday is to be paid at not less than one and one-half times his basic rate of wages for the time worked by him on that day.

Alberta

In Alberta, a general holiday order requires employers to give their employees eight paid holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Crown in right of Alberta and its employees, domestic servants in private homes, farm labourers (other than those in commercial undertakings), municipal policemen and various categories of salesmen are excluded from entitlement to public holidays.

The rule is that if one of the eight general holidays falls on a regular working day for the employee and he does not work on that day, he is entitled to his regular wages for the day.

If the employee is paid by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, the employee must receive the equivalent of his average daily earnings, exclusive of overtime, for his term of employment or for the two months he worked immediately preceding the week in which the holiday occurred.

Where an employee is required to work on a general holiday, he must be paid his regular pay for the day and, in addition, time and a half his normal wages for the time worked. Alternatively, he must be given a holiday with pay at some other time not later than his next annual vacation or on termination of employment, whichever occurs first.

An employee is not entitled to a holiday with pay if he has not worked for his employer for at least 30 days in the preceding 12 months; or if he does not work on the holiday when he has been required or scheduled to do so; or if he is absent without the employer's consent on either of the working days immediately preceding or following the holiday. If such an employee works on a general holiday, he must be paid at least his normal wages for all time worked.

If an employee is not required to work on a general holiday, he must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid his normal wages for the day, in addition to all other wages due him.

Construction workers in Alberta, with the exception of office staff, must be given holiday pay in a lump sum in lieu of being given a holiday with pay on each of eight general holidays.

An employer in the construction industry is required to pay each of his employees a sum equal to 3.2% of his ordinary pay for the period of his employment or the period since he was last paid such sum. Pay in lieu of holidays must be given on December 31 of each year or on termination of employment.

British Columbia

In British Columbia, an order made under the Annual and General Holidays Act provides for nine paid general holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, British Columbia Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. Another day may be substituted for any of the listed holidays.

The order does not apply to employees covered by a collective agreement under the Labour Relations Act. Also excluded are: farm workers; horticultural workers; domestic servants; professional employees and trainees; salesmen of automobiles and other vehicles, mobile homes and heavy duty industrial equipment; and employees exempted by regulation from the Minimum Wage Act (e.g., supervisory, managerial and confidential employees, policemen, firemen, commercial travellers, watchmen, caretakers, maintenance workers, employees on fishing boats, employees of the Pacific Great Eastern Railway, and handicapped employees.)

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay at some other time not later than his next annual vacation, or the day on which he is required to be paid vacation pay where he has not earned an annual vacation, or on termination of employment, whichever occurs first.

An employee who is not required to work on a general holiday that would otherwise be a working day must be paid his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis he must receive the equivalent of a normal day's pay.

Where an employee's working hours vary from day to day, or where his wages are not calculated on a time basis, his pay for a general holiday is to be deemed to be the average of his daily earnings, exclusive of overtime, for the days he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid at his regular rate for all hours worked, in addition to all other wages due him.

The general rule is that, where an employee is required to work on a holiday, he must be paid not less than time and one-half his regular rate of pay for all hours worked and, in addition, must be given a holiday with pay at some other time not later than his next annual vacation or the day on which he is required to be paid his accrued vacation pay, or on termination of employment, whichever occurs first.

Where an employee employed in a "continuous operation" is required to work on a holiday, he must, in addition to his regular rate of pay for the day, either be paid not less than time and one-half his regular rate for all hours worked or be given a holiday with pay at some other time. A "continuous operation" is defined as an operation or service normally carried on without regard to Sundays or public holidays.

For purposes of these provisions, an employee's "regular rate" is to be deemed to be the average of his hourly earnings, exclusive of overtime, for the hours he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment. An employee is also excluded from holiday benefits if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

Where certain employees of an employer are bound by a collective agreement, and other employees of the same employer are entitled to the general holidays provided for in the order, the employer may, with the approval of the Board of Industrial Relations, substitute a holiday specified in the agreement for a general holiday under the order, so that all his employees will be entitled to a holiday on the same day.

Manitoba

In Manitoba, the Employment Standards Act provides for seven paid general holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. Under certain conditions, another day may be substituted for any of the holidays named in the Act. A special Act deals with the observance of Remembrance Day.

The holiday provisions do not apply to independent contractors; persons employed in agriculture, fishing, fur farming, dairy farming or growing horticultural or market garden products for sale; domestics in private homes; volunteers working in a religious, philanthropic, political or patriotic institution; beneficiaries under a rehabilitation or therapeutic project who are given employment; or students and practitioners of professions governed by statute.

An employee who does not work on a holiday that falls on a regular working day is entitled to be paid at least the equivalent of the wages he would have earned on that day. When an employee's wages vary from day to day, his holiday pay must be at least equivalent to his average daily earnings, exclusive of overtime, for the days he worked during the 30 calendar days preceding the holiday. The holiday pay must be paid whether or not the employee is on the employer's pay roll at the time of the general holiday, unless the employee has voluntarily terminated his employment before that day.

Should a holiday occur on a day that is a non-working day for the employee, he must be granted a day off with pay in lieu of the holiday not later than at the time of his next annual vacation or at a time convenient to him and his employer.

If New Year's Day, Dominion Day or Christmas Day falls on a Saturday or Sunday that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately preceding or following the holiday.

An employer must not require an employee who has not worked on the holiday to work on another day in the holiday week that would otherwise be his day of rest, unless he is paid one and one-half times his regular rate for the work done on that day.

An employee who is required to and does work on a general holiday is entitled to his regular pay for the day and, in addition, to one and one-half times his regular rate for the work done on that day.

An employee is not entitled to holiday pay in the following situations: if he has not earned wages on at least 15 days during the 30 calendar days immediately preceding the holiday; if he did not report for work in response to a call from the employer on the day of the general holiday, except where he is dismissed or laid off by his employer or ill; or if he is absent without the employer's consent on the regular working day immediately preceding or following the holiday, unless absent because of established illness. However, an employee who is not entitled to holiday pay for any of the above reasons must be paid at the overtime rate if he works on the holiday.

Employees in the construction industry are entitled to a lump sum in lieu of paid holidays. Each employee must be paid 2 per cent of his total gross wages, exclusive of overtime, for the calendar year. This amount must be paid by December 31 or on termination of employment. Where an employee in the construction industry is required to work on a holiday, he must be paid at one and one-half times his regular rate for the time worked, in addition to the lump sum.

Special provisions are also applicable to employees in a continuously operating plant, seasonal industry (except construction), place of amusement, gasoline service station, hospital, hotel or restaurant, or in domestic service other than in private homes. For these employees, equivalent compensatory time off may be substituted for overtime pay for holidays worked. The time off must be granted within 30 days and the employee must be given at least two days' notice of his day off. At the request of the employee, he and his employer may agree to a later date.

A special Act in Manitoba deals with the observance of Remembrance Day. Work must not be performed on the holiday except in farming, in certain listed essential services, in continuously operating plants, or in emergency circumstances on permit from the Minister of Labour.

An employee who is required to work on Remembrance Day must be paid at least his regular rate of wages and must be granted a day off with pay within 30 days before or after the holiday. In lieu of being given a day off, an employee must be paid twice his regular rate for the time worked. Where an employee is called in to work, he must be paid for the time worked or for not less than half the normal working hours of a regular working day, whichever is greater.

Nova Scotia

The Nova Scotia Labour Code, provides for six paid general holidays -- New Year's Day, Good Friday, Dominion Day, Labour Day, Christmas Day and a day specified as a general holiday in a Regulation. Under certain conditions, another day may be substituted for any of these holidays.

The holiday provisions do not apply to domestic servants in private homes, professional practitioners and trainees, various categories of salesmen, employees covered by a collective agreement, fishermen, fish packing employees, certain workers in the petro chemical industry, and persons working in specific areas of primary farming.

An employee is entitled to a holiday with pay for each general holiday falling within any period of his employment.

If the employee is hired by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, he must receive the equivalent of the wages he would have earned at the regular rate of wages for his normal working day.

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately following the general holiday, or on the day immediately following his annual vacation or on a day agreed upon by the employee and his employer.

Where an employee is required to work on a holiday he must be paid at a rate equal to one and a half times his regular rate of wages for the time worked by him on that day. Where an employee employed in a "continuous operation" is required to work on a holiday, he must be paid as described above or he may be granted a holiday with pay on the working day immediately following his annual vacation, or on another day agreed upon by the employee and the employer.

An employee is not entitled to a holiday with pay if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday; or if he is absent on either of the working days immediately preceding or following the holiday. (This provision is not applicable if the employer has directed him not to report on either day). An employee in a continuous operation is not entitled to be paid for a general holiday on which he did not report for work after having been called upon to work on that day.

Ontario

The Ontario Employment Standards Act, 1974, provides for seven public holidays as of January 1, 1975. The holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. An employer shall give to an employee a holiday on and pay to the employee his regular wages for each public holiday.

The holiday provision does not apply to an employee who is employed for less than three months; has not earned wages on at least twelve days during the four weeks immediately preceding a public holiday; fails to work his scheduled regular day of work preceding or following a public holiday; has agreed to work on a public holiday and who, without reasonable cause, fails to report and perform the work; or is employed under an arrangement whereby the employee may elect to work or not when requested to do so.

This provision likewise does not apply to an employee of a telephone company owning or operating a telephone system, switchboard or exchange serving fewer than 300 subscribers; managers and supervisors; hunting or fishing guides; employees in landscape gardening, mushroom growing, flower growing for retail or wholesale or the growing, transporting and laying of sod; homeworkers; students employed as supervisors or instructors of children or at a children's camp; a student directly employed in a recreational program operated by a charitable organization; resident superintendant, janitor or caretaker; commissioned salesmen (excluding route salesmen); primary farm labourers; or funeral directors or embalmers.

Where a public holiday falls upon a working day for an employee, an employer may with the agreement of the employee or his agent substitute another working day for the public holiday not later than the employee's next annual vacation.

When the holiday falls on an employee's non-working day or in his vacation, the employer may pay the employee his regular rate of pay for that day or substitute a working day not later than the employee's next annual vacation in lieu thereof.

Where an employee works on a public holiday, he is entitled to not less than time and one-half for each hour worked plus his regular wages for that day. Work on a public holiday is not taken into consideration for calculating overtime in that week.

Where an employee works in a hotel, motel, tourist resort, restaurant, tavern, continuous operation or a hospital, and the employee is required to work and works on a public holiday, the employer shall pay the employee in accordance with the above, or pay the employee the regular rate for each hour worked and give to the employee a holiday on his first working day following his next annual vacation or on a working day agreed upon and pay his regular wages for that day.

If employment ceases before a substituted day is taken, the employer shall pay to the employee his regular wages for that day.

Saskatchewan

In Saskatchewan, a minimum wage order requires employees who do not work on any of eight public holidays to be paid their regular pay. For workers in the construction industry and in logging and lumbering, the order provides for payment of a lump sum in lieu of pay for the eight listed holidays. The eight holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day.

When Christmas or New Year's Day falls on Sunday, the following Monday is to be observed as a holiday. When the Monday following Remembrance Day is declared a holiday, it is to be observed as a holiday under the order. By agreement between an employer and a trade union representing a majority of the employees in an appropriate bargaining unit, another working day may be substituted for any of the eight listed holidays. Where workers are not represented by a trade union, the Minister of Labour may by order permit a similar substitution, if he is satisfied that the employer and a majority of the employees are in favour of the change.

The order applies to all employees except managerial employees, employees employed in a family

employee undertaking, employees in farming, ranching and market gardening (other than in egg hatcheries, greenhouses, nurseries, and brush clearing operations), and handicapped workers in sheltered workshops.

If required to work on a holiday, employees in almost all workplaces must receive, in addition to their regular pay for the holiday, time and one-half the regular rate for every hour or part of an hour worked; in effect, two and one-half times their regular pay.

A major exception to the above rule is that workers in hotels, restaurants, hospitals, nursing homes and educational institutions who are required to work on a holiday must be paid, in addition to their regular pay, time and one-half the regular rate. In addition to being paid their regular pay, full-time employees may be given time off equivalent to the hours worked on the holiday at regular rates plus one-half within four weeks.

Persons engaged in the operation of a well-drilling rig are required to be paid at their regular rate of wages, plus their normal pay for the day, for work performed on a holiday.

The order provides that, where an employee's wages, exclusive of overtime, vary from day to day, pay for a public holiday is to be calculated on the basis of his average daily wage, exclusive of overtime for the four immediately preceding days that bear the same name as the day on which the holiday occurs.

Workers in construction and in logging and lumbering who do not work on any of the eight specified holidays must be given holiday pay in a lump sum in an amount equal to 3 per cent of their gross wages for the calendar year, exclusive of overtime. Payment must be made on December 31 or on termination of employment, whichever occurs first. Where a majority of the employees in an appropriate bargaining unit are represented by a trade union, the union and the employer may, by agreement in writing, elect that the workers be paid regular wages for each holiday, instead of a lump sum payment.

Construction workers who work on the holiday must be paid, in addition to the lump sum payment, wages at the rate of time and one-half their regular rate for all time worked. The latter amount must be paid in the pay period in which it is earned.

Workers in the logging and lumbering industries who work on a public holiday must be paid regular pay for all time worked, in addition to the lump sum payment to which they are entitled.

The Territories

In both Territories, employees are entitled to a holiday with pay in respect of each of the general holidays listed in the Ordinance. Both Ordinances provide for the same eight general holidays as are named in the federal Code but in the Yukon Ordinance a ninth holiday, Discovery Day, is provided for. Another holiday may be substituted for any of the listed holidays.

The Yukon Ordinance states that, where a general holiday falls on a Sunday, the Monday following is to be a holiday with pay.

The Labour Standards Officer may allow another holiday with pay to be substituted for a general holiday if another holiday is specified in a collective agreement or, where there is no collective agreement, if an employer applies for a substitution and the majority of the employees agree.

In the Northwest Territories, an employee is entitled to a holiday with pay only when a general holiday falls on a regular working day.

In the Northwest Territories, if an employee is required to work on a holiday, he must be paid his regular pay for the day and must, in addition, be paid at his regular rate of wages for the hours worked or he must be given a holiday with pay at a time convenient to him and his employer, not later than his next annual vacation or on termination of employment, whichever occurs first.

The Yukon Ordinance follows the Canada Labour Code, Part III, (Labour Standards), in requiring, for work done on a holiday, payment of regular pay plus wages at the rate of time and one-half for the hours worked. This provision does not apply to custodial work or essential services as prescribed by regulations. A person employed in any such employment must be granted a holiday with pay at another time in lieu of a holiday on which he was required to work.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a non-working day, unless he is paid at least double his regular rate of wages in the Northwest Territories, or at least one and one-half times his regular rate of wages in the Yukon, for the time worked by him on that day.

The circumstances under which payment of holiday pay is not required differ in the Ordinances.

In the Yukon, an employee is not entitled to pay in respect of a holiday on which he does not work (a) if the holiday occurs in his first 30 days of employment with an employer, or (b) if he is not entitled to wages for at least 15 days in the 30 calendar days immediately preceding the holiday, or (c) if he has not worked an average of 24 hours a week during the four-week period immediately preceding the week in which the holiday falls (excluding any period of annual vacation), or (d) if he did not report for work on the holiday after having been called to work, or (e) if, without his employer's consent, he did not report for work on either the day preceding or the day following the holiday.

Under the Northwest Territories Ordinance, an employee is not entitled to be paid for a holiday if he has not worked for his employer for at least 30 days in the preceding 12 months. Other exceptions are the same as in (d) and (e) above.

Other Legislation Dealing With Holidays

Provisions in the minimum wage order of Manitoba deal with the question of pay for public holidays to the extent of prohibiting deductions from the minimum wage for time not worked on a holiday.

Workers are protected against a reduction in the minimum wage for time not worked on a general holiday (as listed above) which falls on a regular working day. Where an employee does not work on a holiday but does work the regularly scheduled hours on the days immediately preceding and following the holiday and on all the other working days in the week, he is to be deemed, for the purpose of determining the minimum amount of wages to be

paid to him for that week, to have worked regular hours on the holiday. An employee does not lose the benefits of this provision through being absent on either the day before or the day after the holiday because of established illness or with the employer's consent.

Under the Municipal Act of British Columbia, shops in all municipalities must be closed on Christmas Day and the day immediately following, New Year's Day, Good Friday, Dominion Day, Victoria Day, Labour Day, Remembrance Day, the Queen's birthday, Thanksgiving Day and any day designated as a provincial or municipal holiday. There is also legislation in Newfoundland requiring shops to be closed on 13 specified public holidays and on one additional holiday fixed by the municipality.

Under the New Brunswick Closing of Retail Establishments Act no retail establishments shall be open to the general public for the purpose of carrying on business on New Year's Day, Good Friday, Dominion Day, Sovereign's Birthday, Victoria Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, or any day appointed by provincial statute or proclaimed by the Governor-General or the Lieutenant-Governor as a general holiday within the province.

The Québec Commercial Establishments Business Hours Act requires shops to remain closed on New Year's Day, Easter Monday, St. Jean Baptiste Day or the day following if June 24 is a Sunday, Dominion Day or the day following if July 1 is a Sunday, Labour Day, Thanksgiving Day, Christmas Day or any other day fixed by proclamation of the Lieutenant Governor in Council. Shops must not open before 1 p.m. on Boxing Day or on January 2.

Provisions prohibiting work on specified public holidays except with a permit, stipulating that certain holidays must be observed as paid holidays, or requiring the payment of an overtime rate for work done on specified holidays are regular features of the decrees under the Québec Construction Industry Labour Relations Act and Collective Agreement Decrees Act and of industrial standards schedules in Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan. These provisions, while regulating a considerable portion of industry, particularly in Québec, apply only to certain trades and areas in the province concerned. They are not dealt with in this publication.

TERMINATION OF EMPLOYMENT AND SEVERANCE PAY

The federal jurisdiction and eight provinces -- Alberta, Manitoba, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan -- have legislation requiring an employer to give notice to the individual worker whose employment is to be terminated. Five of these provinces place an equal obligation on the employee to give notice to his employer on quitting his job.

In addition, the Parliament of Canada, Manitoba, Nova Scotia, Ontario and Québec require an employer to give advance notice of a projected termination of employment or layoff of a group of employees.

The Canada Labour Code also provides for severance pay for employees with five years' service or more. No other jurisdiction has severance pay provisions.

In seven jurisdictions the legislation is part of the labour code: the Canada Labour Code, Part III, Divisions V.2, V.3 and V.4; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, 1974, Part XII; the Nova Scotia Labour Standards Code, sections 68-74; the Prince Edward Island Labour Act, Part II; and the Saskatchewan Labour Standards Act, Part IV. Newfoundland has a separate law, the Employment (Notice of Termination) Act. The provisions in Québec governing individual notice are contained in the Civil Code; notice of group termination requirements are laid down in Section 45 of the Manpower Vocational Training and Qualification Act and a general regulation made under it.

FEDERAL

Individual Notice

Employees who have been continuously employed for three months or more are entitled to two weeks' notice of termination of employment or layoff. Regulations define circumstances in which notice is not required for layoff. In lieu of notice, the employer may pay an amount equivalent to two weeks' wages at the employee's regular rate for his regular hours of work.

The requirement to give notice does not apply to superintendents, managers or members of listed professions, or where an employee is dismissed for just cause.

Where an employee continues to be employed for more than two weeks after the termination date specified in the notice, his employment must not be terminated, except with his written consent, unless notice is given again.

The Code takes into account the bumping provisions that may be contained in collective agreements. Where a collective agreement authorizes that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met either by giving at least two weeks' notice to the union and the employee and posting a copy of the notice in a conspicuous place in the establishment, or by giving pay in lieu of notice to the employee whose employment is actually terminated.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee. During the notice period the employee must be paid his regular wages for his regular hours of work.

Group Notice

The Code also requires that the employer give notice of group dismissals where the employment of 50 or more persons is to be terminated simultaneously or within a four-week period. Regulations may be made providing for advance notice where a lesser number of employees is being dismissed.

For purposes of group dismissals, layoff is equivalent to termination, except in circumstances determined by regulations.

The length of notice period varies according to the number of employees being dismissed:

50 - 100	8 weeks
101 - 300	12 weeks
over 300	16 weeks

Superintendents and managerial employees are to be included in calculating the number of employees being dismissed. Regulations exclude employees from the group notice provisions when they are employed on a seasonal or irregular basis or under an arrangement whereby the employee may choose to work or not when requested to do so.

Advance notice must be given in writing to the Minister of Labour, with copies to the Department of Manpower and Immigration and the trade union. Where there is no union, notice must be given to the employees being dismissed, either in writing or by posting a notice in the establishment.

The notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment is to be terminated. The regulations require that the notice also include the name of the employer and any trade union acting as bargaining agent, the location at which termination is to take place, the nature of the industry, and the reason for termination. In addition, the employer and trade union must provide the Manpower and Immigration Department with whatever information it requests in order to assist the employees. Both are required to co-operate with that Department in order to facilitate the re-employment of the dismissed employees.

The requirement to give group notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employees or the operation of the establishment.

A Canada Labour Standards regulation defines industrial establishment for the purposes of group notice as all branches of an employer's business located in a regional division established under the Unemployment Insurance Act. Schedules outline what constitutes an industrial establishment for the CNR, CPR, Air Canada and CP Air.

Severance Pay

The Canada Labour Code requires an employer to give an employee who has completed five years of continuous employment severance pay upon termination of employment by the employer. The severance pay must be equivalent to two days' wages at his regular rate of wages for his regular hours of work for each completed year of employment that is within the term of his continuous employment by the employer, up to a maximum of 40 days' wages.

The employer is exempt from the severance pay provisions if, either before or immediately upon termination, the employee is entitled to a pension under a pension plan contributed to by the employer and registered in accordance with the Pension Benefits Standards Act. By the same token, the severance pay provisions do not apply if the employee is similarly entitled to a pension under the Old Age Security Act, or to a retirement pension under the Canada Pension Plan or the Québec Pension Plan.

General Provisions

The Canada Labour Code Standards Regulations define circumstances under which layoff is not considered termination of employment for purposes of individual and group notice and severance pay.

Notice is not required where the layoff is the result of a strike or lockout, is for a term of three months or less, or is made pursuant to the provision of a collective agreement that has the effect of regulating the size of the work force.

In certain circumstances, a layoff of more than three months also does not constitute termination: where the employer notifies the employee that he will be recalled on a fixed date or within a fixed period of up to six months and the employee is actually so recalled; or where, during lay-off, the employee continues to receive payments from the employer in amounts mutually agreed upon, the employer continues to make payments to a pension plan, or the employee receives supplementary employment benefits or is entitled to do so.

Continuity for the purposes of group and individual termination, severance pay and maternity leave is not to be broken where an employee is absent from work because of a lay-off that does not constitute termination or where the absence is permitted or condoned by the employer.

ALBERTA

Individual Notice

The Board of Industrial Relations may establish, by order, requirements for notice of individual termination. The minimum requirements are:

3 months but less than 2 years	7 days
2 years or more . .	14 days

The Board may also make orders requiring payment in lieu of notice of termination; specifying where notice of termination is not required; exempting any class of employers or employees from the application of termination orders; prescribing how notice of termination is to be given and its form and content; and defining "termination" and "period" of employment.

These requirements do not apply to an employer and his employees where there is a custom, practice or agreement providing for a longer notice or upon payment of a greater sum of money in lieu of notice of termination of employment.

Neither these provisions nor any order of the Board affect the right of an employee at common law to be paid, or the duty imposed upon an employer to provide longer notice or a greater sum of money in lieu of termination of employment than that specified in an order of the Board.

MANITOBA

Individual Notice

In Manitoba, an employer or employee in any work or occupation, except farming, must give notice of termination of employment and, except in the case of a person paid less frequently than once a month, the period of notice required is one regular pay period. If the employees are paid less often than once a month, reasonable notice must be given. Notice of termination is not required if an employee is hired for a fixed period unless the employment is, by mutual agreement, continued after the end of the period. Notice is also not required if the employment of an individual is terminated due to violent or improper conduct.

The requirements for giving notice do not apply if a general custom or practice prevails in an industry which is contrary to the terms of the Act or where different conditions concerning notice are established by collective agreement. If employment is terminated during an employee's first two weeks in a job, notice is not required unless the employer and employee have agreed in writing that the requirements of the Act will apply.

An employer is permitted to establish a practice whereby employment may be terminated with a shorter period of notice than that provided for in the Act, and the practice is considered to have been established one month after he has notified each of his employees in writing of the practice and has posted a notice setting out the terms of the practice. Each new employee must be informed of the practice by written notice at the time employment begins.

Complaints of failure to give the required notice may be made in writing to the Minister of Labour within a period of 90 days after employment is terminated. The Minister may himself inquire into it or may refer it to the board for investigation. A procedure is laid down in the Act for the settlement of such complaints.

Group Notice

Manitoba requires that advance notice of group dismissals where 50 or more employees are to be dismissed within a period of 4 weeks be given in writing to the Minister of Labour. Copies must be sent to the certified

or recognized union. Where there is no union, the notice must be given to the employees being dismissed either in writing or by posting a notice in the establishment. The written notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment will be terminated. Regulations may require that the notice include additional information. In addition, there must be co-operation with the Minister to re-establish the employment of the dismissed employees.

The notice period varies with the number of employees to be dismissed:

50 - 100	8 weeks
101 - 300	12 weeks
over 300	16 weeks

Notice for group termination does not apply when the employees are: employed for a definite term or task of 12 months or less; laid off according to regulations*, or after refusing reasonable alternate work offered by the employer or by a seniority system; laid off and do not return to work within a reasonable time after being requested to do so by their employer; on strike or locked out; employed in the construction industry; guilty of wilful misconduct, disobedience ~~or~~ neglect of duty; employed under contract that is or has become impossible to perform or is frustrated by a fortuitous or unforeseeable event; employed under an arrangement whereby they may elect to work or not to work for a temporary period; or at the age of retirement according to the established practice of the employer. The Minister may, by order, make exemptions from the provisions of the Act dealing with group termination if the application of the provisions is unduly prejudicial to the interests of the employees or employer or if it would be seriously detrimental to the industrial establishment.

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A layoff is not considered a termination of employment where (1) the industry is seasonal in nature; or (2) the employee is laid off for a reasonable period, then recalled; or (3) in a non-seasonal industry, the layoff is of reasonable length, the employee is told the date on which he is to be recalled, and he is recalled on or before that date.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee or if there is a collective agreement in force which authorizes changes or variations.

The employer may terminate the employment of an employee without notice if he notifies the employee in writing to this effect and pays him the equivalent of the wages he would have earned for working regular hours during the notice period as well as any unpaid vacation pay to which the employee is entitled.

Any employee who wishes to terminate his employment prior to the expiration of the period of notice must give written notice of such action to his employer.

The employer and the trade union representing the employees affected by the termination must co-operate with the Minister in any action or program aimed at facilitating the re-establishment in employment of the employees involved.

The requirement to give notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employer, employees or the operation of the establishment.

NEWFOUNDLAND*

In Newfoundland, both the employer and the employee are required to give notice of termination of employment. Where an employee is paid once a month or more often, the required period of notice is one regular pay period. Where the employee is paid less often, reasonable notice must be given. In lieu of notice, an employer may pay an employee the normal wages, exclusive of overtime, that he would have earned during the period of notice.

* In Newfoundland, The Termination of Employment Act, 1973, S.N. 1973, Act No. 19, assented to March 29, 1973, was not proclaimed in force as of December 31, 1974, thus it is not reported in this issue of Labour Standards in Canada.

Notice of termination is not required where employment is interrupted by a strike or lockout, or during the first month of employment, or where the employee is hired for a fixed period or for the performance of specified work, unless by mutual agreement the work is continued after the end of the period or the completion of the work.

The requirements of the Act regarding the period of notice do not apply where a different period is established in a collective agreement, or in a written agreement of employment between the employer and employee, if the notice period is of equal length for both parties. Further, a well-established general custom or practice in any industry respecting the period of notice may be continued, in lieu of the period of notice provided for in the Act.

All employers and employees within the jurisdiction of the province are covered by the Act. Regulations may be made exempting any industry or class of persons from coverage.

NOVA SCOTIA

Individual Notice

In Nova Scotia, the Code forbids an employer to discharge or lay off an employee who has been employed for 3 months or more without first giving him written notice in case of either individual or group termination.

In cases of individual termination, the notice period varies with the length of service:

less than	
2 years	1 week
2-5 years	2 weeks
5-10 years . . .	4 weeks
10 years	
or more	8 weeks

Group Notice

Notice of group termination must be given to each employee affected where 10 or more employees are to be discharged or laid off within a period of 4 weeks or less. The Minister of Labour must be informed in writing of any group notice. The notice period varies with the number of employees being dismissed.

10- 99	8 weeks
100-299	12 weeks
300 or more . .	16 weeks

General Provisions

An employee employed for 3 months or more must also give his employer notice before quitting his job unless the employer has been guilty of a breach of the terms and conditions of employment. The notice period depends upon the length of employment:

3 months	
- 2 years . . .	1 week
2 years	
or more . . .	2 weeks

Where a person continues to be employed after the expiry of the notice for a period exceeding the length of notice, he must be given notice again before his employment may be terminated.

Successive periods of employment may be accumulated unless there has been a break of more than 13 weeks in employment, in which case the last period of employment is counted.

An employer must not alter wages and conditions of employment once notice is given, whether by the employer or employee, and must, upon the expiry of the notice, pay the employee all pay to which he is entitled.

Notice may be made conditional upon the happening of a future event if the required notice period is observed.

An employer may terminate an employee's employment immediately upon giving notice if he gives the employee pay in lieu of notice. This pay must be equivalent to the amount the employee would have earned at his regular rate in a normal, non-overtime work-week during the required notice period.

As already mentioned, notice is required in case of lay off. The requirement does not apply where a person is laid off for 6 consecutive days or less or in circumstances defined by regulations. An employee who is not entitled to notice because of the duration of his lay off and whose employment is subsequently terminated (by continued lay off or otherwise) must be given pay in lieu of notice as if his employment had been terminated without notice when he was first laid off.

The requirement to give notice does not apply where the employee has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer.

Persons employed for a definite term or task for a period of 12 months or less are not entitled to notice. However, if the person continues to be employed for 3 months or more after the completion of his term or task, he is to be considered a regular employee and therefore entitled to notice. His period of employment is deemed to begin at the commencement of the term or task.

In addition, persons discharged or laid off for any reason beyond the control of the employer are not entitled to notice if the employer has exercised due diligence to foresee and avoid the cause. Among these reasons are labour disputes, destruction of plant or machinery, unavailability of materials, cancellation or lack of orders, and actions of government authority.

Excluded also are persons who have been offered reasonable alternate employment by the employer or who have reached retirement age according to the established practice of the employer. Employees in the construction industry are excluded from the requirement both to receive and to give notice. Furthermore, regulations may exempt persons employed in any activity, business, work, trade, occupational profession or any part of these.

The length of notice does not include any week of vacation unless the employee agrees to take his vacation during the notice period.

ONTARIO

Individual Notice

In Ontario, an employer is required to give notice in writing to an employee whose employment is to be terminated, provided the employee has completed three months' service or more. The length of notice varies with the period of employment, as follows:

3 months to 2 years	1 week
2 to 5 years	2 weeks
5 to 10 years	4 weeks
10 years or more	8 weeks

A period of employment constitutes the period between the time employment first began and the time that notice was or should have been given. Successive periods of employment may be accumulated, unless there has been a break of more than 13 weeks in employment. In such a case, the period of last employment constitutes the length of service for purposes of the notice.

Group Notice

The group notice requirement applies when an employer plans to terminate the employment of 50 or more persons within four weeks or less. The length of notice is related to the number of workers involved. The minimum written notice that must be given by the employer to the employee and to the Minister of Labour is:

50-199	8 weeks
200-499	12 weeks
500 or more	16 weeks

Where not more than 10 per cent of the persons employed in an establishment are to be dismissed in a four-week period, and these total 50 or more persons, the requirement for notice in the case of individual dismissal applies, unless the termination is caused by the permanent discontinuance of all or part of the employer's business.

Persons who have been employed for less than three months are not to be counted in determining the number employed in an establishment and are not entitled to notice.

In the case of a collective dismissal, the employer is required to co-operate with the Minister during the period of notice in any action or program designed to re-establish the dismissed workers in employment.

Employees who have received notice of a collective termination of employment are required to give written notice to their employer that they intend to quit their jobs. One week's notice is obligatory for an employee who has worked for the employer for less than two years, and two weeks' notice for one who has been employed for two years or more.

General Provisions

A number of provisions are applicable to both individual and group notice.

Where notice is given, employment must continue until the notice has expired. The length of notice may not include any week of vacation, unless the person, after receiving the notice, agrees to take his vacation during the notice period. Where a person continues to be employed after the expiry of the notice for a period exceeding the length of the notice, he must again be given notice before his employment may be terminated.

Under the legislation, the employer is required to give the prescribed notice or to pay the wage or salary equivalent. The employer terminating the employment of an employee without notice must notify him in writing to this effect and pay him the equivalent of the wages he would have earned for working regular hours during the notice period. Compensation payable in lieu of notice is deemed wages for purposes of the Act.

The employer is forbidden to alter the wage rate or any other term or condition of employment of a person to whom notice has been given, and upon the expiry of the notice must pay him the wages and vacation pay to which he is entitled.

The Act covers layoffs other than "temporary layoffs", as defined. Notice of indefinite layoff is deemed to be notice of termination of employment.

A "temporary layoff" is defined as: (1) a layoff of not more than 13 weeks in any period of 20 consecutive weeks; (2) a layoff of more than 13 weeks where (a) the person continues to receive payments from the employer, (b) the employer continues to make payments for the benefit of the person laid off under a bona fide retirement or pension plan or under a bona fide group or employee insurance plan, (c) the person laid off receives supplementary unemployment benefits, or (d) he is entitled to receive supplementary unemployment benefits, but does not receive them because he is employed elsewhere during the layoff; or (3) a layoff of more than 13 weeks where the employer recalls the person within the time fixed by the Director of Employment Standards.

The notice provisions do not apply to a person who is laid off or whose employment is terminated during or as a result of a strike or lockout at his place of work or who has been employed for less than three months. Also exempted from the requirement to receive notice are: (1) a person who is laid off after (a) refusing an offer by his employer of reasonable alternate work or (b) refusing alternate work made available to him through a seniority system; (2) a person on layoff who does not return to work within a reasonable time after being requested to do so by his employer; (3) a person employed under an arrangement such that he may elect to work or not for a temporary period when requested to do so; and (4) a person who has reached the age of retirement according to the established practice of the employer.

An employer is not required to give notice to a person employed for a definite term or task. Where, however, a term or task exceeds a period of 12 months or the person continues to be employed for three months or more after completion of the term or task, the notice provisions apply.

A person who has been guilty of wilful misconduct, disobedience or wilful neglect of duty that has not been condoned by the employer is not entitled to notice, and notice is not required where a contract of employment becomes impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance.

Any notice of termination may be made conditional upon the happening of a future event.

An employee may terminate his employment forthwith upon notice if his employer has been guilty of a breach of the terms and conditions of employment.

The construction industry has been exempted from the requirement to give notice. Other employers are covered, including the Crown and its agencies. Those entitled to notice include professional employees, teachers, commercial fishermen, domestic servants, farm workers and salesmen.

The regulations take into account the bumping provisions that may be permitted by the terms of employment. Where the terms of employment authorize that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met by posting a notice containing the salient facts in a conspicuous place in the establishment.

PRINCE EDWARD ISLAND AND SASKATCHEWAN

In Prince Edward Island and Saskatchewan an employer is forbidden to discharge or lay off an employee who has been in his service continuously for three months or more without giving him at least one week's written notice.

"Layoff" is defined in Saskatchewan as the temporary termination of an employee's service for a period of more than 6 days.

In both provinces, on termination the employee is entitled to his actual earnings during the week or his normal wages for one week, exclusive of overtime, whichever amount is greater. If notice is not given,

the employee is entitled to his normal wages for one week, exclusive of overtime. In Saskatchewan, an employee must receive full pay from his employer within 14 days after the day on which his termination becomes effective. Where an employee's wages vary from week to week, in Saskatchewan, his normal weekly wage is to be obtained by averaging his earnings, exclusive of overtime, for the four-week period immediately preceding the date on which notice was given or, if no notice was given, the date of discharge or layoff.

In Saskatchewan, the employer shall within 14 days, pay to the employee, in addition to all amounts due to him, his average wage for his period of employment with the employer. However, if the employee has at any time been entitled to take an annual holiday under any Act, custom or agreement or under his contract of service, the employer shall within 14 days pay the employee, in addition to all other amounts due to him, his average wage for his period of employment between the dates on which he became entitled to the last annual holiday that he was entitled to take and the date of the termination of employment.

The Prince Edward Island Act also requires an employee with three months' service or more to give his employer at least one week's notice of his intention to terminate his employment.

The requirement to give notice applies to all employees and their employers except farm workers in both provinces and domestic servants in Prince Edward Island. Saskatchewan also excludes ranching, certain handicapped persons, market gardening and employees employed in family undertakings, and Prince Edward Island excludes construction, tourist establishments operating less than six months in a year, and students employed during the period May 1 to October 1.

In certain circumstances notice is not required; namely, discharge for just cause other than shortage of work in Saskatchewan and just cause including shortage of work in Prince Edward Island.

QUEBEC

Individual Notice

In Québec, Section 1668 of the Civil Code requires a domestic, servant, journeyman or labourer engaged by the week, month or year to give one week's notice of termination of employment if hired by the week, two weeks' notice if by the month, and a month's notice if by the year. The employer must give similar notice where an employee's services are no longer required.

Some decrees under the Québec Collective Agreement Decrees Act also require the giving of notice of termination of employment.

Group Notice

Under section 45 of the Manpower Vocational Training and Qualification Act, an employer who, for technological or economic reasons, contemplates the dismissal of 10 or more employees within a period of two months is required to give advance notice to the Minister of Labour and Manpower. The minimum periods of notice required, varying with the number of workers to be dismissed, are:

10 to 99	2 months
100 to 299 . . .	3 months
300 and over . .	4 months

"Employee" does not include a seasonal or casual worker or a director or officer of a corporation.

The requirement to give notice does not apply to an employer in the construction industry or to an employer carrying on an undertaking of a seasonal or intermittent nature. The legislation does not apply to an establishment involved in a strike or lockout.

Layoffs are included in the term "dismissal" but the employer does not have to give notice if he lays off employees for an indefinite period of time, unless the layoff will continue for more than six months.

Where a fortuitous or unforeseeable event prevents an employer from giving notice, he must inform the Minister as soon as he is in a position to do so and furnish proof that he was unable to comply with the law. The Minister will then determine, in consultation with the employer, the period of notice that must be given.

The notice, which must be mailed by the employer to the Manpower Branch of the Department, and which becomes effective on the date of mailing, is to contain: (a) name and address of the employer or establishment; (b) nature of the principal product or service; (c) names and addresses of associations of employees (unions); (d) reasons for the collective dismissal; (e) date on which the collective dismissal will be made; and (f) full name of each employee likely to be dismissed.

The legislation also requires the employer, at the request of the Minister, to participate immediately in the establishment of a reclassification committee, whose task is to study and recommend practical measures for the re-establishment of the dismissed employees. The certified trade union or the employees, if there is no union, must be equally represented on the committee. The employer must contribute funds to the committee to the extent agreed upon by the parties. The Manpower Branch of the Department is responsible for the establishment and functioning of such committees.

The parties may, with the Minister's consent and subject to conditions laid down by him, establish a reclassification fund. If necessary, several employers and several certified trade unions may establish a joint fund.

10. Notice of Individual Termination

Jurisdiction	Notice Required	Application
Federal	2 weeks	Employers in federal industries Exclusions: employed less than 3 months, superintendents, managers, members of professions
Alberta	3 months but less than 2 years: 7 days 2 years or more: 14 days	Employers and employees Exclusions: where there is a custom, practice or agreement providing for (a) a longer notice of termination of employment, or (b) the payment of a greater sum of money in lieu of notice of termination of employment.
Manitoba	Pay period	Employers and employees Exclusion: employed less than 2 weeks, farm workers
Newfoundland	Pay period	Employers and employees Exclusion: employed less than 1 month
Nova Scotia	Employed less than 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: 8 weeks	Employers (employees different) Exclusion: employed less than 3 months, construction industry

Jurisdiction	Notice Required	Application
Ontario	Employed less than 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: 8 weeks	Employers (special provisions for employees under notice of mass layoff) Exclusion: employed less than 3 months, construction
Prince Edward Island	1 week	Employers and employees Exclusion: employed less than 3 months, farm workers, construction
Québec	Hired by week: 1 week Hired by month: 2 weeks Hired by year: 1 month	Listed employees and their employers: domestics, servants, journeymen, labourers
Saskatchewan	1 week	Employers Exclusion: employed less than 3 months, farming, ranching, market gardening

11. Notice of Group Termination

Jurisdiction	Number of Employees	Notice Required
Federal	50 -100	8 weeks
	101 -300	12 weeks
	over 300	16 weeks
Manitoba	50 -100	8 weeks
	101 -300	12 weeks
	over 300	16 weeks
Nova Scotia	10 - 99	8 weeks
	100 -299	12 weeks
	300 or more	16 weeks
Ontario	50 -199	8 weeks
	200 -499	12 weeks
	500 or more	16 weeks
Québec	10 - 99	2 months
	100 -299	3 months
	300 or more	4 months

MATERNITY PROTECTION

Legislation to ensure the health and job security of women working before and after childbirth is in force in the federal jurisdiction and in British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan.

The federal maternity leave provisions are contained in the Canada Labour Code, Part III, Division V.1. British Columbia has a special law on the subject, the Maternity Protection Act. The Manitoba provisions are contained in subsection 34.1 of the Employment Standards Act. The New Brunswick provisions are Sections 11-13 of the Minimum Employment Standards Act, a law which regulates various conditions of employment. Nova Scotia's maternity protection provisions are contained in Sections 56 and 57 of the Labour Standards Code. The Ontario maternity protection provisions form Part XI of the Employment Standards Act, 1974. Saskatchewan's provisions are contained in Part VA of the Labour Standards Act, 1969.

The Canada Labour Code states that a woman who has been continuously employed by her employer for at least one year is entitled to 17 weeks of maternity leave. Employment is deemed continuous where a business is sold or otherwise transferred to a new employer. The employee must make application at least four weeks before her leave is to begin and she must also submit a certificate from a qualified medical practitioner specifying the estimated date of delivery.

The 17 weeks of maternity leave is made up of 11 weeks' voluntary prenatal leave, which is to be extended to the actual date of delivery, and six weeks' compulsory postnatal leave. The postnatal leave may be shortened by mutual agreement of the employer and employee, if the woman submits a medical certificate certifying that the resumption of employment at the earlier time will not endanger her health.

Provision is also made for up to 11 weeks of prenatal leave in special cases where a woman has not submitted an application as required by the Code. The employee must present her employer with a medical certificate specifying the probable date of delivery and

certifying that during her period of leave she was incapable of performing her normal duties because of a condition arising out of her pregnancy that was not anticipated by the physician.

Job security is guaranteed by prohibiting dismissal or layoff of an employee who is entitled to maternity leave solely because she is pregnant or because she has applied for maternity leave. An employee who resumes work after leave must be reinstated in the position she occupied before her leave began or in a comparable position with not less than the same wages and benefits. Maternity leave is not to interrupt continuity of employment for purposes of calculating pension or other benefits.

In Ontario, Manitoba, Nova Scotia and Saskatchewan, an employee must have worked continuously for her employer for at least one year in order to be eligible for maternity leave benefits.

Ontario, Nova Scotia and Manitoba provide for 17 weeks of maternity leave consisting of 11 weeks' voluntary prenatal leave and six weeks' compulsory postnatal leave. British Columbia and New Brunswick provide for 12 weeks' of maternity leave, six weeks before and six weeks after childbirth, with the postnatal leave being compulsory. Saskatchewan provides for 18 weeks of maternity leave, 12 weeks before and a compulsory period of six weeks after. On production of a medical certificate showing the expected date of confinement, the employee must be granted a period of leave of up to six or 12 weeks, depending on the province, preceding the specified date. In Saskatchewan, the employee may be granted the prenatal leave without application if she has bona fide medical reasons to cease work immediately and in Manitoba upon production of a medical certificate indicating the probable date of delivery and certifying that she is incapable of performing her duties because of a condition arising out of her pregnancy that was not expected by the physician. In Ontario an employee who does not give two weeks notice to her employer but who otherwise is entitled to pregnancy leave, shall, before the expiry of two weeks after she ceased to work, provide her employer with a certificate of a legally qualified medical practitioner stating that she was not able to perform the duties of her employment due to a condition arising from her pregnancy. The Ontario, Manitoba, Nova Scotia and Saskatchewan Acts stipulate that the period of voluntary leave is to extend to the actual date of delivery.

In Ontario, Nova Scotia and Saskatchewan the employer has the right to require the employee to commence her leave at any time (in Saskatchewan up to a maximum of three months), if the duties of her position cannot reasonably be performed by a pregnant woman or if her performance is materially affected by the pregnancy. The employee must produce a doctor's certificate when required to do so by the employer.

The British Columbia and New Brunswick Acts forbid the employer to permit an employee to work during the six-week period following childbirth or during a longer period than six weeks, if recommended in a medical certificate. In Saskatchewan, a further six weeks may be granted the employee upon production of a medical certificate giving bona fide reasons why the employee is unable to return to work. The Manitoba, Nova Scotia and Ontario laws do not provide for extension of the postnatal leave on medical grounds. In Manitoba, Nova Scotia, Ontario and Saskatchewan the obligation is on both the employee and the employer to observe the six weeks' compulsory leave, unless a shorter period is agreed upon by both parties and is supplemented by the recommendation in writing by a medical practitioner.

In all six provinces, the right to maternity leave is supplemented by a guarantee that an employee will not lose her employment because of her absence on maternity leave. In Manitoba, Nova Scotia, Ontario and Saskatchewan a woman with a minimum of one year's service is protected against dismissal throughout pregnancy. In British Columbia and New Brunswick, an employer is forbidden to give notice of dismissal and to dismiss an employee for reasons arising out of absence on maternity leave during a period of 16 weeks. In Manitoba, an employer is not required to reinstate an employee when she has remained absent from work for a period of more than ten weeks following the actual date of delivery. The maximum amount of leave to which an employee is entitled in Saskatchewan must not exceed 18 weeks.

In Nova Scotia, Ontario and Saskatchewan, the employer is required to permit the employee to resume work with no loss of seniority or accrued benefits. In Manitoba, for the purpose of calculating pension and other benefits employment after the termination of maternity leave is to be considered as continuous with employment before commencement of the leave.

In Ontario, where the employer has suspended or discontinued operations during an employee's pregnancy leave, the employer shall, upon resumption of operations, reinstate the employee to her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time her leave of absence began with no loss of seniority or benefits accrued to the commencement of her leave of absence or in the absence of such a system shall reinstate her in her position or provide alternative work at no loss of pay, seniority or accrued benefits.

Under a provision of the Alberta Labour Act, the Board of Industrial Relations has authority to regulate and prohibit the employment of women during and following pregnancy. The Board has not exercised this authority.

In Nova Scotia, certain employers may be exempted from the maternity protection provisions by regulation. In British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan the provisions apply to employers with one or more employees.



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FOREWORD

This publication sets out the provisions of federal and provincial labour standards laws enacted by the end of 1975 in the areas of statutory school-leaving age, minimum age for employment, minimum wages, equal pay for equal work, hours of work, weekly rest-day, annual vacations, general holidays, termination of employment, maternity protection and severance pay.

"Standards" as used in the title means the minimum standards required by law. These standards are set out in narrative form and in tables, where appropriate.

The publication was prepared by Mr. Allan Nodwell.

J.P. Whitridge,
A/Director,
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DIVISION OF LEGISLATIVE POWERS

Both the Parliament of Canada and the provincial legislatures have the power to enact labour laws. The jurisdiction of the provincial and federal governments arises from the British North America Act, Sections 91 and 92. Judicial interpretation of these sections gives provincial legislatures major jurisdiction, with federal authority limited to a narrow field.

Provincial authority is derived from the "property and civil rights" subsection of the B.N.A. Act. The right to enter into contracts is a civil right, and since labour laws impose certain restrictions on contracts between employers and employees, they fall within provincial authority as property and civil rights legislation. Provinces also have the right to legislate as to "local works and undertakings."

Federal jurisdiction in the labour law field arises from the right to regulate certain subjects expressly assigned to Parliament by Section 91 of the B.N.A. Act, or expressly excepted from provincial jurisdiction by Section 92. These subjects are of a national, international or inter-provincial nature. In addition, Parliament has jurisdiction to regulate works wholly within a province which have been declared by Parliament to be works "for the general advantage of Canada or for the advantage of two or more of the provinces," as, for example, grain elevators, feed mills and uranium mines. By virtue of its exclusive power to regulate certain works and undertakings, Parliament has the incidental power to enact labour laws relating to those works and undertakings.

The Canada Labour Code applies to:

- (1) Works or undertakings connecting a province with another province or country, such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals and telegraph, telephone and cable systems.
- (2) All extra-provincial shipping and services connected with such shipping, e.g., longshoring and stevedoring.
- (3) Air transport, aircraft and aerodromes.
- (4) Radio and television broadcasting.

- (5) Banks.
- (6) Defined operations of specific works that have been declared to be for the general advantage of Canada or of two or more provinces, such as flour, feed and seed cleaning mills, feed warehouses, grain elevators and uranium mining and processing.
- (7) Most federal Crown corporations, e.g., the Canadian Broadcasting Corporation and the St. Lawrence Seaway Authority.

The jurisdiction of Parliament is generally limited to the above industries, with certain possible additions arising from subsequent judicial decisions.

In addition, Parliament has exclusive jurisdiction to pass laws dealing with the Yukon and Northwest Territories. Parliament has enacted legislation for local government in each territory, granting power over property and civil rights and matters of a local and private nature. Accordingly, the territorial governments have virtually the same legislative powers with regard to labour laws as do the provinces.

Labour standards legislation has been enacted by the Territorial Councils of the Yukon and Northwest Territories in most of the fields of legislation covered by this publication. Labour Standards Ordinances, modelled on the Canada Labour Code, Part III (Labour Standards), with modifications to meet the particular requirements of the Territories, went into force July 1, 1968. The Ordinances established minimum standards of hours of work, wages, annual vacations and general holidays for employees in the Territories. Previous to the enactment of the Northwest Territories Ordinance, the only labour standards applicable were those established by mines legislation. Standards in the Yukon Ordinance replaced those previously laid down in the Yukon Labour (Minimum Wages) Ordinance, the Labour Provisions Ordinance and the Annual Vacations Ordinance.

The Commissioner of each Territory is to administer the Ordinance, with the advice and assistance of an Advisory Board, consisting of a chairman, an employers' representative and an employees' representative. Provision was made for the appointment of a Labour Standards Officer to administer the Ordinance, under the Commissioner's direction, and for the appointment of inspectors.

The Ordinances apply to employers and employees in any work, undertaking or business of a local or private nature in the Territory. The Northwest Territories Ordinance excludes domestic servants in private homes, trappers, persons engaged in commercial fisheries, and managers or superintendents or persons who exercise management functions. Members or students of designated professions may be excluded by regulations. The Yukon Ordinance applies generally but certain classes of employees are excluded from Part I governing hours of work.

STATUTORY SCHOOL-LEAVING AGE

In all provinces there is a school attendance law which makes it compulsory for children between specified ages to attend school. Exceptions are permitted where a child is unable to attend because of illness or other unavoidable cause and, in most provinces, because of distance from school (where no conveyance is provided) or lack of school accommodation. Some Acts stipulate that a child may be excused from attendance before reaching the statutory school-leaving age if he has already attained a specified standing. An exception may also be granted in special cases, if it appears to be in the interest of the child that he should be excused from school attendance or where the child is certified to be under efficient instruction elsewhere.

In Manitoba, a child over 15 may be permitted to leave school on production of a certificate signed by his parent or guardian, the school attendance officer and the superintendent of schools or, if there is no superintendent, by the school inspector.

In five provinces, a child may be exempted from school attendance for a temporary period on the application of his parent or guardian, if his services are required for necessary farm or home duties or for employment. The New Brunswick Schools Act states that the Minister of Education may issue a certificate relieving a child from school attendance for a maximum period of six weeks in each school term, on the written application of the child's parent, if he agrees with the reasons for such application. In Prince Edward Island, the Minister of Education may certify in writing to the regional school board that a child should be exempted from school attendance. No such exemptions are provided for in Alberta, British Columbia and Ontario.

In both Territories, a School Ordinance provides for compulsory school attendance to the age of 15. In the Northwest Territories, if a child reaches his 15th birthday after December 31, he must attend to the end of the school year. As in the provinces, a child may be exempted from school attendance if he is under instruction in some other satisfactory manner, if he is prevented from attending school for any unavoidable cause, or if he has reached a standard of education equal to or higher than that to be attained in the school. In the Northwest Territories, a child may be allowed to leave school before the statutory school-leaving age if he has completed Grade VIII or its equivalent. An exception is also permitted in the Northwest Territories in the case of a child who is unable to attend because of distance from school or lack of school accommodation.

The employment of children of school age during school hours is forbidden unless a child is excused for any reason provided in the Acts. The school-leaving age in each province and territory and the provisions for exemption for employment are shown in the table below.

1. Statutory School-leaving Ages
and Work Exemptions

Province	School-leaving Age	Work Exemptions
Alberta	16	
British Columbia	15 -- unless course completed at nearest public school and transport to higher school not provided	
Manitoba	16 -- must attend to end of school term	Over 12, for not more than 4 weeks in a school year if services needed in husbandry or home duties Over 15, with certifi- cate signed by parent, attendance officer and superintendent of schools
New Brunswick	15 -- unless Grade 12 passed	For not more than 6 weeks in each school term if Minister agrees with reasons for parents' application
Newfoundland	15 -- must attend to end of school year	For period stated in certificate if services needed for maintenance of self or others, child under 12 for not more than 2 months in a school year except with approval of Minister

Province	School-leaving Age	Work Exemptions
Nova Scotia	16	If 12, for not more than 6 weeks in a school year if services needed for home duties or other necessary employment If 13, with employment certificate if services needed for maintenance of self or others; medical certificate may be required
Ontario	16 -- unless secondary school or equivalent completed. Must attend to end of school year	
Prince Edward Island	15	If Grade 12 completed or Minister certifies exemption from school attendance
Québec	15 -- must attend to end of school year	For not more than 6 weeks in a school year if services needed in farming, home duties or maintenance of self or relatives
Saskatchewan	16 -- unless Grade 8 or equivalent passed also where exemption permitted by superintendent	If services needed for maintenance of self or others

Province	School-leaving Age	Work Exemptions
Northwest Territories	15 -- must attend to the end of the school year if after December 31, or unless Grade 8 or equivalent passed. Also where distance from or lack of school accommodation prevents attendance	
Yukon Territory	15 -- unless for unavoidable cause, has reached a standard equal to or higher than school's standard or being instructed in a manner and to a standard satisfactory to the Superintendant	

MINIMUM AGE FOR EMPLOYMENT

The Canada Labour Code, Part III and regulations do not set an absolute minimum age for employment, but lay down conditions under which young persons under 17 years may be employed in federal undertakings. A young person under 17 may be employed in a federal industry only if he is not required to be in attendance at school under the laws of his province; the work in which he is to be employed is not likely to injure his health or endanger his safety; and he is not employed underground in a mine or in work prohibited for young workers under the Explosives Regulations, the Atomic Energy Control Regulations or the Canada Shipping Act.

Employment for young workers under 17 is subject to two further conditions: that an employee under 17 is not required or permitted to work between 11 p.m. and 6 a.m.; and that he is paid not less than \$2.35 an hour, unless he is undergoing on-the-job training under an approved training plan.

The Canada Shipping Act fixes a minimum age of 15 for employment at sea.

In the provincial jurisdictions, a minimum age for employment is set by mines Acts and a variety of other provincial legislation (child labour laws, Child Welfare Acts, the Alberta Labour Act, the Manitoba Employment Standards Act, factory or industrial safety laws and minimum wage orders).

Four provinces -- British Columbia, Nova Scotia, Prince Edward Island and Newfoundland -- have a child labour law, prohibiting employment below a specified age. The Newfoundland Employment of Children Act, 1968, is to go into force upon proclamation.

The British Columbia Control of Employment of Children Act forbids employment of a child under 15 in specified industries or occupations, unless a permit is obtained from the Minister of Labour. The Act applies to manufacturing, shipbuilding, electrical works, logging, construction, catering, public places of amusement, the mercantile industry, shoeshine stands, automobile service stations, road transport and the laundry, cleaning and dyeing industry.

Under the Nova Scotia Labour Standards Code, sections 65-67, employment of a child under 16 is forbidden in industrial undertakings (including mines, quarries and construction), the forest industry, garages and service stations, hotels and restaurants, operating elevators, theatres, dance halls, shooting galleries, bowling alleys and

billiard and pool rooms, and in any employment prohibited by regulations. Subject to any Act or regulations, this restriction does not apply to an employer who employs members of his family. The employment of children under 14 is prohibited in work unwholesome or harmful to health or normal development, or which prejudices attendance at school or the child's capacity to benefit from instruction; for more than eight hours in a day; for more than three hours in a school day (except with an employment certificate); on any day for a period that, when added to school hours, totals more than eight; at night between 10 p.m. and 6 a.m.; or any employment prohibited by regulation. The Nova Scotia Construction Safety Act sets a minimum age of 16 years for employment in construction.

The Prince Edward Island law (the Minimum Age of Employment Act) sets a minimum age of 15 years for employment in mining, manufacturing, shipbuilding, electrical works, construction, transport by road, rail or inland waterway, undertakings involving the conversion, canning or packaging of any farm or sea products and the printing and publishing of newspapers, books and magazines.

The Newfoundland Act, which has not been proclaimed, prohibits the employment of children under the age of 16. There is provision in the Act, however, for the making of regulations by the Lieutenant-Governor in Council permitting the employment of children under 16 in any specified occupation, subject to such conditions as may be prescribed.

The Act lays down the conditions under which a child under 16 may not be employed. He may not be employed to do any work that is or may be harmful to his health or normal development or that may prejudice his attendance at school or his capacity to benefit from school instruction. He may not work more than eight hours in a day or more than three hours on a school day. Time spent at school and at work may not total more than eight hours. Work between the hours of 9 p.m. and 8 a.m. is prohibited. Further, he may not be employed during a strike or lockout. Children under the age of 14 may not be employed in any occupation specified by regulation.

Two other provinces -- Alberta and Manitoba -- have fixed a minimum age for most employment in their labour codes.

In Alberta, a person under 15 may not be employed in any employment except with the written consent of the parent or guardian and the approval of the Board of Industrial Relations. As the school-leaving age is 16 and no exemptions are allowed for employment, children under 16 may work only

when school is not in session. However, a person under the age of 15 may be employed if they have been excused from school attendance under the School Act for the purpose of securing vocational training through employment; or if they are enrolled in a work experience program approved by the Minister of Education and the Board of Industrial Relations.

A regulation under the Alberta Labour Act contains several provisions governing the employment of persons under 18 years. Children over 12 and under 15 may be employed: as deliverers of small wares for a retail store; clerks in a retail store; clerks or messengers in an office; or deliverers of newspapers, flyers or handbills if the employment is not likely to be injurious to the life, health, education or morals of the person. The parents of a person under 15 shall file with the employer written consent for the employment of the person. Employment of such person is limited to two hours in a day on which he or she is required to attend school; or eight hours on non-school days. Employment of a person under 15 is prohibited between 9 p.m. and 6 a.m. Further, persons over 15 and under 18 are forbidden to work between 9 p.m. and 12:01 a.m. on the premises of a retail business selling food or beverages (whether alcoholic or not) or any other commodities, goods, wares or merchandise, or petroleum or natural gas products, or any establishment, including a hotel or motel, where the owner is required to hold a visitor's accommodation business license, unless the young person works with and is in the continuous presence of at least one other person 18 years of age or over.

No young person shall work in the above-mentioned premises between the hours of 12:01 a.m. and 6 a.m. A young person between the ages of 15 and 18 years may work in other premises not specified above if the parent or guardian has given written consent and if the young person works with and is in the continuous presence of at least one other person 18 years of age or over.

In Manitoba, a child under 16 may not be employed in a factory. For any other employment, the minimum age is 16, unless a written permit is obtained from the Minister of Labour.

Five provinces have Child Welfare Acts which limit the employment of children in various ways. Under the Newfoundland Act, no child under 16 may be employed: (1) between 9 a.m. and 8 a.m. except in employment in which members of the employer's family are employed under his or her supervision; or (2) in any occupation prohibited by an order of the Lieutenant-Governor in Council. Employers are

forbidden to employ an unmarried girl under 16 in a restaurant, tavern or hotel without the written consent of her parents or guardian. Neither may a child under 16 be employed for remuneration when he is required to be at school by the provisions of the School Attendance Act, 1962. In Alberta, the Child Welfare Commission may grant licences for employment of a child over 12 in any entertainment under certain conditions. It must be satisfied that there is no danger to the child's life, limbs, health, education or morals and that provision is made for his health and kind treatment. Where a person employs a child to perform for profit in public without a licence or contrary to the provisions of a licence he is guilty of an offence. Under the Manitoba Child Welfare Act a municipal council may pass by-laws for regulating, controlling and licensing children employed as messengers, newspaper vendors, shoe shiners, pin boys or juvenile entertainers. No child may work for a fee in any of these occupations without a licence. No licence shall be issued to any female child or any male child under 12. Nor shall any child over 12 but under 14 be granted a licence without the authorization of his parents or guardian. No child may work at the occupation for which he is licensed during school hours nor (unless he is a juvenile performer) after specified hours in the evening, depending on the season. No person may habitually employ a child between the hours of 9 p.m. and 6 a.m. nor may he employ a child in any occupation likely to be injurious to his life, limbs, health, education or morals. Severe fines and penalties are imposed for abuses of children against the provisions of the Act.

The Saskatchewan Welfare Act provides that a child who is employed between 10 p.m. and 6 a.m. of the following day may be apprehended by a welfare officer or peace officer and taken to a place of safety. A person who (a) causes a child to be in a public place for the purpose of begging, etc., under the pretence of performing; or (b) causes a child under 13 to be employed between 10 p.m. and 6 a.m.; or (c) causes a child to be in a circus or place of public amusement to perform for profit is guilty of an offence and liable to a fine or imprisonment or both. A licence may be issued by the mayor or other authority to permit a child to take part in public entertainment under suitable conditions.

In the other provinces, a minimum age for a wide field of employment is established in factory or industrial safety laws and, in Saskatchewan, a minimum wage order.

In New Brunswick, the Industrial Safety Act prohibits the employment of a child under 16 years of age in any place of employment without a written authorization from the Minister.

In Ontario, the minimum age for employment in an industrial establishment is 15 years. "Industrial establishment" is defined as being an office, factory or shop. A child of 14 may be employed in a shop, office or office building, restaurant, bowling alley, pool room or billiard parlour if the work is not likely to endanger his safety. The Child Welfare Act provides that girls under 16 and boys under 12 must not engage in or be licensed or permitted to engage in any street-trade or occupation. Boys between 12 and 16 must not engage in such trade between 9 p.m. and 6 a.m.

The Ontario Construction Safety Act fixes a minimum age of 16 years but permits the employment of 15-year-olds in such parts of a construction project as may be designated by the regulations. No provision has been made in the regulations to date for the employment of 15-year-olds. A minimum age of 16 has been established for the logging industry.

As the school-leaving age in Ontario is 16 years and no exemptions are now permitted for employment, the above-mentioned minimum ages which are below the age of 16 apply only to such time as school is not in session. No child under 16 may be employed in any employment during school hours.

In Québec, the minimum age for employment in an industrial or commercial establishment is 16 years. The same minimum age applies to employment in hotels, restaurants, theatres and other places of amusement and to the employment by a department store or telegraph company of boys or girls as messengers. Children of 15 years of age may be employed in any of these workplaces during school vacations, but only with a permit from the inspector.

Boys and girls under 16 are forbidden to sell papers or carry on any street trade unless they can read and write fluently, and such work may not be carried on after 8 p.m.

In Saskatchewan, no person under 16 may work in a factory (which term includes dry cleaning establishments and laundries, garages and service stations, and coal, potash and sodium sulphate mines) or in a hotel, restaurant, educational institution, hospital or nursing home. Regulations may be made prohibiting the employment of young persons under 18 in factories where the work is deemed dangerous or unwholesome. Unless a permit is obtained from an inspector, the hours of work for young persons under 18 are limited to 48 in a week and night work is forbidden.

Mines Acts in all provinces but Prince Edward Island (which has no mining operations) fix the minimum age for employment in mines. Females are forbidden to work in mines in the Northwest Territories, Nova Scotia, Ontario, Québec, Saskatchewan and the federal jurisdiction.

The minimum age for employment in mines, factories, shops, hotels and restaurants is set out in the table below. In most provinces, as indicated above, the legislation (apart from mines Acts) covers certain other classes of establishments in addition to those set out in the table.

Under a Mining Safety Ordinance in each Territory, the minimum age for employment underground or at the working face of any open-cut workings, pit or quarry is 18 years. The minimum age for employment in or about a mine is 16 years in the Northwest Territories.

Under the Labour Standards Ordinance of the Yukon, regulations may be made laying down conditions under which young persons under the age of 17 years may be employed. In the Northwest Territories, a person under the age of 17 may be employed in any occupation except in such occupations and subject to such conditions as are prescribed by regulation.

2. Minimum Age for Employment

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Alberta	17	15 except with permit ¹	15 except with permit ¹ ₂	15 except with permit ¹
British Columbia	18 below ground ³	15 except with permit	15 except with permit	15 except with permit
Manitoba	16 above 18 below	16	16 except with permit	16 except with permit
New Brunswick	Coal: 16 Metal: 16 above 18 below	16 except with permit	16 except with permit	16 except with permit
*Newfoundland	16 above ⁴ 18 below	16 ⁴	16 ⁴	16 ⁴
Nova Scotia	Coal: 18 below Metal: 16 above 18 below	16 ⁴	14	16 ⁴
Ontario	16 above 18 below	15 ¹	14 ^{1,5}	14 ^{1,5} (restaurants only)
Prince Edward Island	15	15	--	--

*Act not yet proclaimed in force.

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Québec	15 above 18 below	16 ^{6,7}	16 ⁶	16 ^{6,7}
Saskatchewan	16 above 18 below	16	--	16
Yukon Territory	18 below	17 ⁶	17 ⁶	17 ⁶
Northwest Territories	16 above 18 below	-- ⁸	-- ⁸	-- ⁸

¹ A child under 16 may not be employed during school hours.

² Minimum age of 12 years in certain occupations, including work as clerk, delivery boy or delivery girl in retail store, with written consent of parent and subject to restrictions on hours (2 hours in a school day, 8 hours on any other day) if not injurious to life, health, education or morals.

³ A boy who has reached the age of 17 may be employed underground for the purpose of training.

⁴ Except in family undertakings.

⁵ A child of 14 may be employed if the work is not likely to endanger his safety.

⁶ The Government may exempt establishments from the Act.

⁷ For certain dangerous occupations, the minimum age is 18 for boys; for others, it is 16 for boys and 18 for girls.

⁸ A person under the age of 17 may be employed in any occupation except in such occupations and subject to such conditions as are prescribed by regulation.

MINIMUM WAGES

Minimum wage laws are in force in the federal jurisdiction, all ten Canadian provinces and the two Territories.

The Canada Labour Code (Part III, Division II) sets a minimum rate for employees 17 years of age and over in the federal industries. This rate may be increased from time to time by order of the Governor in Council. The rate for persons under 17 is established by regulation.

Employees who are paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to be paid the equivalent of the minimum wage.

An employer who is providing on-the-job training to increase the skill or proficiency of his employees, in accordance with conditions prescribed by the regulations, may be exempted from paying the minimum wage to such employees during the whole or part of the training period.

The Code provides also for the payment of a wage lower than the minimum rate to handicapped employees under a system of individual permits.

In Alberta, Manitoba, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan, minimum wage legislation is part of each province's labour code -- the Alberta Labour Act, Part III, Division II; the Manitoba Employment Standards Act, Part II; the Nova Scotia Labour Standards Code, sections 48-54; the Ontario Employment Standards Act, 1974, Part V; the Prince Edward Island Labour Act, Part II, section 51; the Saskatchewan Labour Standards Act, Part III. The other provinces have individual minimum wage laws.

In most provinces, minimum wage boards or other labour boards are authorized by law to recommend minimum rates of wages or to establish such rates with the approval of the Lieutenant-Governor in Council. In Ontario minimum rates are established by the Lieutenant-Governor in Council. In Alberta and British Columbia they are set by the Boards of Industrial Relations. The rates are then imposed by minimum wage orders or, in Ontario and Manitoba, by regulations under the provincial Employment Standards Act.

Except in two provinces, the Acts do not specify how the minimum wage is to be determined. In Manitoba, the board is directed to take into consideration and be guided by "the cost to an employee of purchasing the necessities of life and health." The Québec Minimum Wage Commission is directed to

consider "competition from outside countries or from the other provinces and the economic conditions peculiar to the various regions of the province."

The practice is to fix a general basic wage, taking into account the cost of living, economic conditions and other relevant factors. The minimum wage rate is set mainly for the protection of the unorganized and unskilled worker. It constitutes a floor above which trade unions may negotiate with management for a higher standard. The boards hold public hearings and make extensive inquiries before minimum wage orders are put into effect. Minimum wage orders are reviewed fairly frequently.

The boards are composed of members who represent the interests of employers and employees and in some cases the general public, with an impartial chairman, frequently an officer of the Department of Labour. In British Columbia at least one member of the board must be a woman, and in Nova Scotia and Saskatchewan there must be two women on the board.

In most provinces, minimum wage orders now cover practically all employment. Domestic service in private homes is excluded in all provinces except Prince Edward Island. In Newfoundland, an employer may not pay less than \$30 per week for domestic service. Farm labour is also excluded in all provinces except Newfoundland. In Ontario and Nova Scotia this exclusion is limited to farming proper, certain farm-related occupations being covered. Fruit, vegetable and tobacco harvesters are covered by the minimum wage in Ontario. Persons in Manitoba who are employed in selling horticultural or market garden products grown by another person are covered. In Saskatchewan, minimum wage rates apply to egg hatcheries, greenhouses, nurseries and brush clearing operations, and in Alberta and Prince Edward Island to farm workers employed in commercial undertakings.

A few other classes of workers are excluded in most jurisdictions. Typical exclusions are supervisory and managerial employees, certain categories of employed students, registered apprentices, certain categories of salesmen, and members and students of professions.

Minimum wage orders apply to both men and women.

In all provinces general orders are issued setting hourly rates that apply to most workers throughout the province. In five provinces, these general orders are supplemented by special orders, applying to a particular industry, occupation or class of workers and in some cases taking into account a special skill.

British Columbia, which originally had a separate minimum wage order for each industry or occupation, has been consolidating its orders. Twelve special orders still remain; the minimum rates set by these orders are the same as the rate set in the general order.

Québec has three industry orders, governing the retail food trade, sawmills and forest operations. Formerly there were eight special orders. The rates set by all three special orders are lower than the general rates.

The other provinces set only a few special rates. Nova Scotia has established rates for employees in beauty parlors and province-wide rates for logging and forest operations and for road building and heavy construction. Special rates for construction, mining and primary transportation and for logging, forest and sawmill operations have been set in New Brunswick. A weekly rate has been set in Alberta for commercial agents and salesmen. Special rates contained within the general regulation in Ontario apply to the construction and ambulance service industries.

In the Northwest Territories and the Yukon, Labour Standards Regulations were issued under the Labour Standards Ordinance. Both Ordinances require the payment of a minimum rate of wages to employees who are 17 years of age and over.

Where employees are paid on a basis other than time, or on a combined basis of time and some other basis, they are required to receive the equivalent of the minimum wage.

In three provinces the orders provide that inexperienced workers may be employed during a specified period at a rate below the regular minimum. These rates may be applicable generally or to a particular occupation.

Provision is also made in the legislation of almost all jurisdictions for the employment of handicapped workers at rates below the established minimum, usually under a system of individual permits.

In all jurisdictions except New Brunswick, Newfoundland, Saskatchewan and the Yukon Territory, the orders set special minimum rates for young workers. Student rates are set in two provinces.

In addition to setting minimum wage rates, minimum wage legislation usually contains other related provisions intended to protect the worker. The most prevalent of these provisions are described below.

Tipping is dealt with specifically in the Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Québec and federal legislation. These provisions make it clear that gratuities are not to be counted as part of wages. In New Brunswick a new section under the Minimum Wage Act established that money paid as a tip or gratuity, or as a surcharge or other charge in lieu of a tip or gratuity is the property of the employee to whom or for whom it is given and shall not be withheld by the employer. Québec orders state that tips are the exclusive property of the employee, and the employer is not allowed to deduct them or to consider them as part of the wages paid, even with the employee's consent. Boards in other provinces take the position that gratuities are not to be regarded as wages.

Québec regulations state that employees who work in hotel trade establishments and who usually receive tips are entitled to the minimum hourly rate less 30 cents.

There are provisions in the orders of most provinces and the Territories (and also in the federal Labour Code) relating to the charges or deductions for board and lodging, where furnished by the employer to the employee.

In some jurisdictions (federal, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island, Québec, the Northwest Territories and the Yukon), the orders set limits on the amounts by which such charges may reduce the minimum wage. The Ontario orders fix the maximum amounts at which meals or a room or both may be valued for minimum wage purposes, where board and lodging are provided as part of wages. In the other provinces, the orders set the maximum charges or deductions that may be made.

The Northwest Territories stipulates that an employee's wages must not be reduced below the minimum wage for meals supplied; the furnishing and upkeep of uniforms; or for accidental breakages.

Maximum charges or deductions are not set in British Columbia orders. If the board finds that services are inadequate or charges are excessive, it may specify the maximum charges that may be made.

Requirements are also laid down in some minimum wage orders regarding the provision and maintenance of uniforms, where these are required to be worn.

Most general orders contain a "daily guarantee" or "call-in-pay" provision requiring that an employee who is called to work be paid for a certain number of hours, even if he is not put to work or if he works for a shorter period. This two-, three-, or four-hour minimum period, as the case may be, must be paid for at the minimum rate, except in British Columbia, where payment is required at the employee's regular rate of pay.

Under a Northwest Territories Regulation, an employee who is required to report for work must be paid a minimum of four hours' pay at his regular rate.

3. General Minimum Wage Rates for
Experienced Adult Workers
(Legislated as of December 31, 1975)

Jurisdiction	Rate	Effective Date
Federal	\$2.60 \$2.90	July 23, 1975 April 1, 1976
Alberta	\$2.50 \$2.75	July 1, 1975 March 1, 1976
British Columbia	\$2.75 \$3.00	December 1, 1975 June 1, 1976
Manitoba	\$2.60	October 1, 1975
New Brunswick	\$2.30	July 1, 1975
Newfoundland	\$2.20 \$2.50	January 1, 1975 January 1, 1976
Nova Scotia	\$2.25 \$2.50	March 1, 1975 January 1, 1976
Ontario	\$2.40 \$2.65	May 1, 1975 March 15, 1976
Prince Edward Island	\$2.30	October 1, 1975
Québec ¹	\$2.60 \$2.80	June 1, 1975 December 1, 1975
Saskatchewan	\$2.50 \$2.80	March 31, 1975 January 1, 1976
Northwest Territories	\$2.50	April 1, 1974
Yukon Territory	\$2.70 \$3.00	July 23, 1975 April 1, 1976

¹ Québec -- Employees of hotel trade establishments (e.g., hotels, restaurants, bars, camping grounds, etc.) who usually receive tips are entitled to general hourly rate less 30 cents an hour.

4. Minimum Wage Rates for
Young Workers and Students*
(Legislated as of December 31, 1975)

Jurisdiction	Rates per Hour		Effective Date
Federal	Employees under 17:	\$2.35	July 23, 1975
		\$2.65	April 1, 1976
Alberta	Employees under 18:	\$2.35	July 1, 1975
		\$2.60	March 1, 1976
	Students under 18 employed part-time:	\$2.00	July 1, 1975
		\$2.25	March 1, 1976
British Columbia	Employees 17 and under:	\$2.35	December 1, 1975 ¹
		\$2.60	June 1, 1976
Manitoba	Employees under 18:	\$2.35	October 1, 1975
Nova Scotia	Underage employees 14 to 18:	\$2.00	March 1, 1975 ²
		\$2.25	January 1, 1976
Ontario	Students under 18 employed for not more than 28 hours in a week or during a school holiday:	\$2.00	May 1, 1975 ³
		\$2.15	March 15, 1976
Prince Edward Island	Employees under 18:	\$2.00	October 1, 1975
Québec	Employees under 18:	\$2.40	June 1, 1975 ⁴
		\$2.60	December 1, 1975

Jurisdiction	Rates per Hour		Effective Date
Northwest Territories	Employees 16:	\$2.00	April 1, 1974
	Employees 15:	\$1.75	April 1, 1974
	Employees under 15:	\$1.50	April 1, 1974

*New Brunswick, Newfoundland, Saskatchewan and the Yukon Territory have no special rates for young workers or students.

¹British Columbia -- Does not apply to bus operators, resident caretakers, or taxicab drivers.

²Nova Scotia -- Except with approval of Minimum Wage Board, no more than 25% of employer's total workforce may be underage employees (14-18), except where his total working force is 7 or less he may employ 2. In a hotel, restaurant, motel or tourist resort during the period June 15 - September 15, up to 60% of employees may be underage workers. These rates do not apply in beauty parlours, logging and sawmill operations or road building and heavy construction.

³Ontario -- Student rates do not apply to the ambulance or construction industries.

⁴Québec -- Rate of \$2.40 for sawmill workers under 18 set by ordinance governing sawmills.

5. Minimum Rates and Learning Periods
for Inexperienced Workers*
(Legislated as of December 31, 1975)

Jurisdiction	Hourly Rates and Learning Periods	Effective Date
Nova Scotia	During first 3 months of employment:	\$2.00 March 1, 1975 ¹
		\$2.25 January 1, 1976
Ontario	During first month of employment:	\$2.30 May 1, 1975 ²
		\$2.55 March 15, 1976

*No provision for lower rates for learners in federal jurisdiction, British Columbia, Manitoba, Prince Edward Island, New Brunswick, Newfoundland, Québec or Saskatchewan. In Alberta a learner's rate is set only for workers in the garment industry. In addition to the general rate for experienced workers, Nova Scotia has a learner's rate for beauty parlours.

¹ Nova Scotia -- Inexperienced employees are persons with less than 3 months' experience in the work for which they are employed. Without the express approval of the Minimum Wage Board, the number of underage or inexperienced employees employed by the employer may not exceed 25% of his total working force. An employer whose total working force is seven or less may employ two inexperienced employees. However, in the case of an employer operating a motel, hotel, restaurant or tourist resort from June 15 to September 15, up to 60% of the persons employed may be underage or inexperienced employees during this period.

² Ontario -- Not more than 20% of total number of employees in an establishment may be employed as learners, and only persons who have no previous experience in the work may be paid learners' rates.

6. Maximum Charges Permitted
for Board and Lodging*
(Legislated as of December 31, 1975)

Jurisdiction	Meals		Lodging		Board and Lodging
	single	per week	per day	per week	per week
Federal	50¢		60¢		
Alberta	85¢		\$1.10		
Manitoba	50¢			\$5.00	
New Brunswick	\$1.00				\$2.75 per day
Newfoundland	75¢	\$12.50		\$5.50	\$18.00
Nova Scotia ¹	90¢	\$17.50		\$5.00	\$22.50
Ontario	\$1.15	\$24.00		\$11.00	\$35.00
Prince Edward Island	\$1.00	\$12.00		\$6.00	\$18.00
Québec ²	75¢			\$6.00	\$21.00
Saskatchewan ³	75¢ or \$2.25 per day		75¢		
Northwest Territories	65¢		80¢		
Yukon Territory	50¢		60¢		

*No maximum charges set in British Columbia.

¹ Nova Scotia -- Logging and forest operations: board and lodging, \$3.00 per day; construction, no charges set; beauty parlour employees same as table.

² Québec -- Sawmill and forest operations: single meal, 65¢; board and lodging, \$1.95 per day; retail food trade, same as table.

³ Saskatchewan -- Applies to hotels and restaurants and employees earning \$140 or less a week in educational institutions, hospitals and nursing homes only.

EQUAL PAY

The Parliament of Canada, the two territories and all provinces have enacted laws which require equal pay for equal work without discrimination on the grounds of sex.

In six jurisdictions equal pay provisions are contained in the labour code -- the Canada Labour Code, Part III, Division II.1; the Ontario Employment Standards Act, 1974, Part IX; the Saskatchewan Labour Standards Act, Part V; the Nova Scotia Labour Standards Code (sections 55-57); the Manitoba Employment Standards Act; and the Yukon Territory Labour Standards Ordinance, (section 12-1).

In five other provinces equal pay provisions form part of human rights legislation -- the Alberta Individual's Rights Protection Act, the Human Rights Code of British Columbia and the Newfoundland, Prince Edward Island Human Rights Codes and the Charter of Human Rights and Freedoms in Québec. The Northwest Territories Fair Practices Ordinance, which is a human rights code, also provides for equal pay for equal work. New Brunswick has a separate equal pay Act.

The Newfoundland and New Brunswick legislation forbids an employer to pay a female employee at a rate of pay less than the rate paid to a male employee for the same work done in the same establishment.

The Prince Edward Island Act states that an employer may not pay a female employee at a rate of pay less than the rate paid to a male employee for substantially the same work done in the same establishment. The British Columbia Act refers to the same work or substantially the same work done in the same establishment.

The Alberta Act forbids an employer to employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer (or vice versa) for similar or substantially similar work. The work is deemed to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar. Reduction of an employee's rate of pay in order to comply with the legislation is prohibited.

In Québec every employer must, without discrimination, grant equal salary or wages to the members of his personnel who perform equivalent work at the same place.

A difference in salary or wages based on experience, seniority, years of service, merit, productivity or overtime is not considered discriminatory if such criteria are common to all members of the personnel.

In the Northwest Territories an employer is forbidden to pay a female employee at a lesser rate than the rate paid to a male employee for the same work done in the same establishment. A difference in rates based on a factor other than sex does not constitute discrimination.

This prohibition does not apply to employers who employ fewer than five employees, to domestic employment, or to non-profit charitable, philanthropic, educational, fraternal, religious or social organizations or those operated primarily to foster the welfare of a religious or racial group.

In the Yukon Territory, sections of the Labour Standards Ordinance prohibit an employer from paying a female employee at a lesser rate of pay than that paid to a male employee or vice versa for the same work performed under similar working conditions except where such payment is made pursuant to a seniority system; a merit system; a system measuring earnings by quality or quantity of production; or a differential based on any factor other than sex. Reduction of an employee's pay in order to comply with this legislation is not permitted. Employers' and employees' organizations are prohibited from causing or attempting to cause an employer to pay his employees rates of pay that contravene the legislation.

The federal, Ontario, Saskatchewan and Manitoba provisions also protect persons of either sex against discrimination in the payment of wage rates. These provinces, and also Nova Scotia, lay down criteria for determining whether the work performed is the same or similar.

In the federal jurisdiction, an employer is forbidden to establish or maintain differences in wages between male and female employees employed in the same industrial establishment, who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility.

In Ontario, no employer or person acting on behalf of an employer shall differentiate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or vice versa, for substantially the same kind of work performed in the same establishment, the performance of which requires substantially the same skill, effort and responsibility, and which is performed under similar working conditions, except where such

payment is made pursuant to a seniority system; a merit system; a system that measures earnings by quantity or quality of production; or a differential based on any factor other than sex.

In Saskatchewan, the employer is prohibited from paying a female employee at a lesser rate of pay than that paid to a male employee or vice versa for similar work performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions. Nova Scotia's provisions apply for the same work performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions except that they only apply to female employees.

In the federal, Alberta, Ontario and Saskatchewan jurisdictions the employer is forbidden to reduce the rate of pay of an employee in order to comply with the equal pay requirement. Further, in Ontario, employee or employer organizations may not cause or attempt to cause an employer to pay wages that contravene the equal pay provisions of the Act.

In Manitoba an employer is forbidden to pay the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment, if the work required of, and done by, employees of each sex is the same or substantially the same. By way of clarification, the Act states that the work of male and female employees is to be deemed the same or substantially the same if the job, duties, responsibilities, or services that the employees are called upon to perform are the same or substantially the same in kind or quality and substantially equal in amount.

All the Acts make it clear that a difference in rates of pay based on a factor other than sex does not constitute failure to comply with their requirements. In Nova Scotia, however, the employer must establish that such a factor justifies a different rate of pay.

The Saskatchewan Act contains specific exceptions in addition to the general exception permitting a differential based on any factor other than sex. Differences in rates of pay based on a seniority system or a merit system do not constitute discrimination within the terms of the Act.

In all provinces, except British Columbia and the two territories, equal pay legislation is applicable to provincial government employees. The federal Act covers employees of Crown corporations but does not apply to other federal public servants. Rates of pay of classified public servants are set by classification, according to the type of work performed, without any distinction based on sex.

The procedure laid down for the enforcement of equal pay provisions may be invoked upon complaint by the aggrieved person in British Columbia, New Brunswick, Newfoundland, Prince Edward Island and the Northwest Territories.

In Alberta, Manitoba and Nova Scotia, investigation may be initiated upon complaint by the aggrieved person or upon the initiative of the director appointed under the Act. In addition, in Manitoba any person may file a complaint on behalf of the aggrieved person. The provisions of the Saskatchewan Act require the director, where he receives a directive from the Minister or a request from the aggrieved person, to advise the Human Rights Commission of the complaint and to request the commission to conduct a formal inquiry into the matter.

In the federal, Ontario and Nova Scotia jurisdictions, and the Yukon Territory, enforcement no longer depends solely on a formal complaint. The equal pay provisions are enforced through inspection by the field staff of the respective Departments of Labour.

A complaint is to be registered in Newfoundland, New Brunswick and Prince Edward Island with the Minister of Labour (of Manpower and Industrial Relations in Newfoundland); and in British Columbia, Manitoba and Saskatchewan with a designated officer of the Department of Labour (the Director). In Alberta, complaints are made to the Human Rights Commission. The Alberta and British Columbia legislation impose a six-month time limit for making a complaint. In the Northwest Territories a complaint is made in writing to an officer appointed by the Commissioner to inquire into complaints made under the Fair Practices Ordinance.

In all jurisdictions, except Ontario, Nova Scotia and the federal industries, the legislation provides for an initial informal investigation into a complaint, usually by an officer of the Department of Labour. In Alberta, such an investigation is made by the Human Rights Commission.

In Newfoundland and New Brunswick, if the person designated to make the inquiry is unable to settle the matter, a board or commission of one or more persons may be appointed. In Newfoundland the commission is called the Human Rights Commission. (In Newfoundland, the Minister may, in addition, appoint a commission when he deems it desirable to have an inquiry made into any matter within the purview of the Act.)

In Alberta, the Human Rights Commission will refer a complaint that is not settled under the initial investigation to a Board of Inquiry (appointed by the Minister) to investigate the matter. In Saskatchewan, the director may refer the matter to the Human Rights Commission, a permanent body established under the Act. In Alberta the Commission may dismiss a complaint at any stage of proceedings if it is of the opinion that it is without merit. Under the Manitoba Act, the second stage of the procedure is the appointment of a referee, who may or may not be an officer of the Department of Labour. In Prince Edward Island, the Minister must inquire into the matter if it is not settled at the earlier stage.

The board, commission, ad hoc committee, referee or Minister is given full powers to conduct a formal inquiry. All the Acts provide that the parties to the complaint must be given an opportunity to present evidence and to make representations.

The recommendations of the board, commission, committee or referee, as the case may be, may be put into effect by an order of the Minister except the Alberta, British Columbia and Saskatchewan Acts. Under the Alberta Act, the recommendations of the board are made to the commission. If the commission is unable to effect a settlement on the course of action to be taken with the person against whom the finding was made, the commission must deliver all material pertaining to the complaint to the Attorney General who may apply to the Supreme Court for an order. The Human Rights Commission must issue an order and in Saskatchewan it may issue an order if it finds that there has been a contravention of the Act. In Prince Edward Island, if the Minister finds the complaint to be justified, he must direct the course of action that ought to be taken and may issue an order to carry the course of action into effect. Under all the Acts, compliance with the order is required.

In Newfoundland, the order of the Minister may be appealed to the Supreme Court. Under the Alberta Act, a decision of the board of inquiry may be appealed to the Supreme Court. An appeal of a decision or order made by the Saskatchewan Human Rights Commission may be made to a judge of the Court of Queen's Bench.

In British Columbia, where the Director is unable to settle an allegation, he shall make a report to the Minister of Labour who may refer the allegation to a board of inquiry. The board may issue an order to pay the wages lost as a result of the contravention. This order may be enforced by filing it in the Supreme Court of the province.

In Saskatchewan, where the Human Rights Commission finds that a contravention of the Act has been made it may order compliance with the provisions including the payment of compensation to the aggrieved party for previous service that was the subject of the complaint. Every person who violates the provisions of the federal Act is guilty of an offence and is liable on summary conviction to a fine, imprisonment, or both. The employer may also be directed to pay arrears of wages to which the employee was entitled. In Alberta the judge may order compensation for the person discriminated against for all or any part of any wages or income lost or expenses incurred by reason of the discriminatory action.

In Ontario, an employment standards officer has the authority to determine the amount of wages owing to an employee, where in his opinion an employer has contravened the equal pay provisions. The officer may issue an order to the employer to pay forthwith to the Director in trust any wages to which an employee is entitled.

Under the wage collection procedure of the Employment Standards Act, the Director is empowered to collect unpaid wages for an employee up to a maximum of \$4,000 and the employer is subject to a penalty of 10 per cent of the amount owing. An employer who has paid the wages and penalty as required, has the right to apply to the Director for a review, whereupon a referee designated by the Director is required to hold a hearing, giving the employer full opportunity to make submissions, and to decide the amount owing to the employee. The decision of the referee is final and binding.

In Nova Scotia where the Director of Labour Standards finds that an employer has not paid equal wages, he may direct the employer to pay the amount due to the employee to the Labour Standards Tribunal. If he disputes the direction, the employer may apply to the Tribunal for a determination of the amount. If the Tribunal finds the employer is indebted to the employee, it must order the employer immediately to pay over to the Tribunal the amount of pay found to be unpaid. The person to whom the order is directed must forthwith comply with the order.

In the Northwest Territories, if settlement is not reached through conciliation, the officer must recommend to the Commissioner the action that should be taken with respect to the complaint. The Commissioner may issue whatever order he thinks necessary to put the recommendations into effect. A person affected by the order may appeal it within 10 days to a judge of the Territorial Court, whose decision is final.

In the Yukon, where the employer has not paid the wages required, the Labour Standards Officer may determine the amount owing the employee and such amount shall be deemed to be unpaid wages. Where the officer is unable to effect a determination, the matter is referred to the Advisory Board for investigation. The Board, upon review of the matter recommends what action should be taken.

Provision is made in all the Acts for prosecution in the Courts as a last resort. Failure to comply with the Act or an order is made an offence punishable by a fine. In Newfoundland and Saskatchewan, the convicting magistrate must order the payment of wages due, in addition to imposing a fine. Under the federal Act, an employer convicted of an offence under the Act may, in addition to any other penalty, be made liable for payment of wages found to be due.

Each of the Acts, except the Female Employees Fair Remuneration Act of New Brunswick, makes it an offence for an employer to dismiss or otherwise discriminate against an employee because he has made a complaint or given evidence under the Act.

A number of the laws provide that a person claiming to be aggrieved by an alleged contravention of the Act has a choice of initiating court proceedings or making a complaint. Some Acts stipulate that the right of an employee to take any other proceeding for recovery of wages to which he is entitled is not barred by reason of any remedy provided for in the Act.

HOURS OF WORK

Federal

Hours of work of employees in undertakings within the federal labour jurisdiction are regulated by the Canada Labour Code, Part III, Division I.

The Code sets a standard workday and workweek and requires payment of an overtime rate for work done beyond the hours specified. It also establishes a maximum workweek, overtime hours being restricted to eight in a week, except in special circumstances.

Under the Code, standard hours (the number of hours that may be worked at regular rates of pay) are limited to 8 in a day and 40 in a week. Hours in excess of eight and 40 may be worked, however, provided one and one-half times the regular rate is paid, up to a maximum of 48 hours in a week.

In a week in which an employee is entitled to a general holiday with pay (under Part III, Division IV of the Code) the overtime rate is to be paid after 32 hours, instead of 40. In calculating overtime for the week, no account is to be taken of any time worked on the holiday.

Because some types of employment may call for a more flexible arrangement of working hours, the Code permits the averaging of hours over a period of two or more weeks. Under a system of averaging, working hours may vary from day to day or from week to week so long as the total standard hours do not exceed 40 multiplied by the number of weeks in the averaging period. The overtime rate (one and one-half times the regular rate) must be paid at the end of the averaging period for all hours worked in excess of such standard hours. The total number of hours that may be worked by an employee in an averaging period is the product of the number of weeks in the period multiplied by 48.

Averaging is permitted for any class of employees who have no regularly scheduled working hours or who have regular hours but the number of hours scheduled differs from time to time. On notification to the Department of Labour, an employer may select an averaging period of 13 weeks or less.

If an employer requires a longer period for averaging than 13 weeks in order to provide for a period in which fluctuations take place (e.g., where there are seasonal rush and slack periods during the year), he must obtain the approval of the Minister of Labour. The same conditions apply as to a period of 13 weeks or less. The period over which hours may be averaged may be as long as a full year.

An employer who has adopted an averaging plan is required to post clear information about the plan in places where it can readily be seen by the employees affected.

When an employee terminates his employment of his own accord during an averaging period, he is paid his regular rate for his hours worked but he is not entitled to overtime pay. If this employment is terminated by the employer, however, he must be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.

Exceptions from the maximum workweek are permitted in certain circumstances. Work in excess of 48 hours in a week (or the maximum hours established in an averaging period) may be allowed under permit, when the Minister, having given due regard to the conditions of employment and the welfare of the employees, is satisfied that such exceptional conditions exist as to make the working of additional hours necessary.

A permit is issued for a definite period of no longer duration than the time the exceptional circumstances are expected to continue. The permit may specify either the total amount of excess overtime that may be worked in the period or the additional number of hours per day or per week that the employees may work. The number of employees engaged in such excess overtime and the extent of the overtime worked by each must be reported in writing to the Minister within 15 days after the overtime permit expires or within a time fixed in the permit.

Maximum weekly hours may also be exceeded to make up for the time lost due to an accident, breakdown in machinery or other emergency. The employer is required to report such emergency work within a specified time.

In order to deal with the special problems of some industries, regulations may be made, after public inquiry, varying the standard and maximum hours for classes of employees in any specified establishment where the Code provisions would be unduly prejudicial to the interests of the employees or seriously detrimental to the operation of the establishment, or entirely exempting a class of employees from the hours provisions where they cannot reasonably be applied.

Regulations may also be made specifying the circumstances under which the overtime rate will not apply because work practices make it unreasonable or inequitable. A general regulation issued under the Canada Labour Code provides for exemption from the overtime provisions in circumstances where there is an established work practice that requires or permits

an employee to work in excess of standard hours for the purpose of changing shifts or permits an employee to exercise seniority rights to work in excess of standard hours pursuant to a collective agreement.

Different hours of work provisions have been established temporarily under the former deferment provisions of the Code for some industries, including shipping on the St. Lawrence River, the East Coast and Newfoundland.

Provincial

General Hours of Work Laws

Five provinces have Acts of general application regulating working hours (the British Columbia Hours of Work Act; the Alberta Labour Act, Part III, Division I; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, 1974, Part IV and the Saskatchewan Labour Standards Act, Part II).

The Acts of British Columbia, Ontario and Alberta set a maximum number of hours per day and per week beyond which an employee must not work. Hours are limited in British Columbia to eight in a day and 44 in a week and in Ontario to eight in a day and 48 in a week. Maximum hours of work in Alberta are limited to eight in a day and 44 in a six-day week. The weekly hours of work may be varied to provide for an average of 44 per week in each consecutive four-week period, provided that the total number in any one week does not exceed 48 hours.

All three laws provide for exceptions in certain circumstances. Exceptions are authorized in orders or regulations or through the issuing of a permit. In both Alberta and British Columbia, the administrative board has authority not only to permit working hours to exceed statutory limits but also to fix the minimum wage payable for overtime. In both provinces the board has made special orders for a considerable number of industries, permitting variations from the daily and weekly hours specified in the Act for exempting workers entirely from hours limitations.

In Ontario, the Director of Employment Standards may, by permit, authorize hours of work in an establishment in excess of eight and 48, subject to specific limits laid down in the Act. The limit for overtime is 12 hours in a week for an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman, or any other person who, in the opinion of the Director, is engaged in a similar occupation. For all other employees the limit for excess hours is 100 hours in each year for each employee.

The Director may also issue a permit authorizing working hours in excess of the overtime limits set out above, if he is satisfied that the nature of the work or the perishable nature of the raw material being processed requires the excess hours.

Subject to certain exceptions set out in the regulations, one and one-half times the regular rate must be paid for work done, under permit, beyond 48 hours in a week. As of January 1, 1975, overtime shall be paid for work done beyond 44 hours. The employee's regular rate of pay must not be reduced in complying with this requirement.

Taxi drivers, and ambulance drivers and their helpers are not entitled to overtime pay. In certain industries -- highway transport, local cartage, road building, sewer and watermain construction, the hotel, motel, tourist resort, restaurant and tavern industry (seasonal employees) and fruit and vegetable processing (seasonal employees) -- extended hours, 50, 55 or 60, as the case may be, may be worked before the overtime rate applies.

The Manitoba and Saskatchewan Acts set standard hours as opposed to maximum hours. They do not limit the hours which may be worked in a day or in a week but require the payment of time and one-half the regular rate after eight hours in a day and 40 hours in a week. To prevent the working of excessively long hours, the Saskatchewan Act empowers the Lieutenant-Governor in Council to limit daily hours in any occupation to 12, except in special circumstances or when permission to work longer hours has been obtained from the Minister of Labour.

The Manitoba and Saskatchewan laws also provide for exceptions. The Manitoba law permits working hours to be varied in certain circumstances without payment of the overtime rates. The Manitoba Labour Board must review once a year any orders it makes under this authority. The Lieutenant-Governor in Council may, by order in council, declare that a state of public emergency exists or where a Royal Proclamation is issued under the Emergency Measures Act, and during the time that the emergency exists the provisions relating to overtime rates shall be and remain suspended. In Saskatchewan, regulations permit hours to be averaged over a specified period, thus allowing some variation from week to week. Certain classes of employees have been entirely exempted from the Act, with the result that these classes have no entitlement to overtime pay.

Under all the Acts, there is provision for working daily hours in excess of eight in order to establish a compressed workweek, so long as weekly hours are not exceeded. There is also provision, except in Saskatchewan, for hours to be exceeded in emergencies.

The standards set under hours of work laws and the application of each Act in general terms are set out in Table 7.

The Nova Scotia provisions respecting hours of work are incorporated in the Labour Code. The Minimum Wage Board is empowered, after investigation and subject to the approval of the Lieutenant-Governor in Council, to issue orders determining the daily or weekly hours of work for persons employed in industrial undertakings. Currently the maximum hours per week are set at 48. The number of hours of work per day and/or per week may be varied in certain cases. The hours per day may vary provided that the total hours per week do not exceed the standard set by the Board. In addition, the hours of work may be exceeded in case of accident, urgent work, or "force majeure," but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking. The hours of work limit may also be exceeded where shift work is required.

The Territories

The Mining Safety Ordinances of both Territories provide for a maximum eight-hour day for work below ground in mines.

Under the Labour Standards Ordinance of the Northwest Territories, standard hours of work are eight in a day and 44 in a week for most employees. Except in special circumstances, maximum hours are 10 in a day and 54 in a week.

Different standards are laid down for certain classes of employees. Standard hours of 191 in a month have been established for persons employed in exploration and development of metal mining and petroleum (including geophysical, geological, seismological and diamond drilling work), the transport of goods to and from isolated areas, and in tourist camps. For these employees, maximum hours are 234 in a month.

In the Yukon Territory, standard hours are eight in a day and 40 in a week. Maximum hours of work permitted are 10 in a day, 60 in a week and 260 in a month. Overtime beyond the limits of eight and 40 hours is prohibited for employees engaged in mining operations underground in a shaft or tunnel.

In all cases where an employee is required or permitted to work in excess of standard hours, he must be paid one and one-half times his regular rate.

Averaging of hours over a period of two or more weeks is permitted under both ordinances. The manner and circumstances in which averaging may be allowed are to be prescribed by regulations.

Exceptions from maximum hours are permitted in certain circumstances. Where work in an industrial establishment is seasonal or intermittent in nature, the Commissioner, after having considered the nature of the establishment, the conditions of employment and the welfare of the employees, may issue an order permitting excess hours to be worked.

In the Northwest Territories, hours in excess of maximum hours (10 and 54 or 234, as the case may be) may be worked with a permit issued by the Labour Standards Officer, when the applicant has satisfied him that there are exceptional circumstances to justify the working of additional hours.

Under both ordinances, maximum hours may be exceeded in an emergency due to an accident, breakdown in machinery or other unpreventable circumstances. Details of such emergency work must be reported (in the Yukon, only upon request).

The hours of work provisions of the Yukon Ordinance do not apply to members of the employer's family, individuals who search for minerals, travelling salesmen, domestic servants, farm labourers, and supervisory and managerial employees. Members and students of professions and other persons or classes of persons may be excluded by regulations.

Persons employed as hunting or fishing guides are exempted from the hours of work provisions of the Northwest Territories Ordinance.

Other Legislation Restricting Hours

Apart from general hours of work laws, other statutes regulate working hours in some industries.

Schedules under industrial standards legislation in seven provinces and decrees under the Quebec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act regulate hours in construction and other industries. Schedules and decrees apply to designated zones; a number apply throughout the province.

Generally speaking, standard weekly hours for the construction industry range from 40 to 48, with a 40-hour week being the usual standard in the larger centres. In Québec, a 40-hour week is set for tradesmen, a 42 1/2-hour week for labourers and a 50-hour week for road building.

In another industry regulated by schedules and decrees in Ontario and Québec, the garment industry, some standard weekly hours are 36 or 37 1/2. In most branches of the industry, standard hours have been reduced to 35.

In Manitoba, maximum hours which may be worked at regular rates are set under the Construction Industry Wages Act, which applies to both private and public construction work. At the present time an eight-hour day and a 40-hour week is in effect for most classifications of construction work in the Greater Winnipeg area, and a 44-hour week in the rest of the province. In the heavy construction industry, the maximum hours of work payable at regular rates are 54 except in Metropolitan Winnipeg during the period from November 1 to April 30, when a 48-hour week is in effect.

Working hours of employees under 18 are restricted by the New Brunswick Minimum Employment Standards Act and by factory legislation in two other provinces. Under the New Brunswick Minimum Employment Standards Act, which is applicable to any place of employment other than a private home or federal undertaking, hours of employees under 18 years are limited to nine in a day and 48 in a week, unless special permission to work longer hours is obtained from the Minister of Labour. Québec factory law restricts hours of employees under 18 to nine in a day and 50 in a week in factories and to 54 hours in a week in commercial establishments. In Saskatchewan, women and boys under 18 employed in factories are prohibited from working more than 48 hours in a week.

In Newfoundland, the Hours of Work Act limits working hours of shop employees anywhere in the province to eight in a day and 40 in a week, unless one and one-half times the regular rate is paid.

In all provinces except Manitoba, Ontario and Saskatchewan, there is also some indirect regulation of hours by virtue of provisions in minimum wage orders requiring the payment of an overtime rate after a specified number of hours of work.

A general minimum wage order in British Columbia encompasses a number of special groups formerly governed by separate orders. The order covers the auto repair and

gasoline service station industry; barbers and hairdressers; the construction industry; electronic technicians; outside employees in irrigation districts; the logging, sawmill, woodworking and Christmas tree industries; the trades of machinists, moulders, refrigeration and sheet metal; patrolmen; pipeline construction; ship and boat building; and stationary engineers.

The standard workweek under the general order is 40 in a week and eight in a day. Maximum hours are set at 44 in a week and eight in a day. Payment of time and one-half the regular rate is required after eight hours in a day and in excess of 40 in a week excluding hours worked in excess of eight in any one day. Employees working under a written permit from the Board of Industrial Relations or pursuant to an agreement confirmed by the Board with respect to hours of work must be paid time and one-half the employee's regular rate of pay for all hours worked in excess of a weekly average of 40 over the averaging period, excluding hours worked in excess of eight in any one day.

In Saskatchewan, the Minimum Wage Board has no authority to fix overtime rates. All overtime pay requirements are laid down in the Labour Standards Act and orders under it. In Manitoba, overtime pay requirements are contained in Part III of the Employment Standards Act and regulations. In Ontario, overtime pay is required under the Employment Standards Act, 1974 and regulations.

A minimum wage order of considerable significance with regard to working hours because of its wide coverage is the General Minimum Wage Order 4 in Québec. Order 4 is a blanket order applying to all employees in the province except those covered by decrees, workers governed by special minimum wage orders, farm workers, domestic servants, and a few other minor groups. The minimum rates set by Order 4 apply to a standard workweek of 45 hours, after which an overtime rate of one and one-half times the minimum rate must be paid. A few classes of employees are excluded from these overtime provisions (e.g., fishing and harvesting industries and watchmen).

Night Work for Women

Manitoba minimum wage regulations require employers to provide women employees whose work begins or ends between midnight and 6 a.m. with adequate transportation, without cost to the employee, between the place of residence and the place of employment.

In Saskatchewan, women employees in hotels, restaurants, educational institutions, hospitals and nursing homes who are required or permitted to finish work between 12:30 a.m. and 7 a.m. must be provided by the employer with free transportation to their homes. Night work for women is prohibited in factories, except with a permit from the inspector.

7. Hours of Work

Jurisdiction	Standards Set	Application
Federal	Standard hours: 8, 40 after which 1 1/2 times the regular rate Maximum hours: 48	Federal industries Exclusions: managers, superintendents and professional employees Exceptions ¹
Alberta	Maximum hours: 8, 44 after which 1 1/2 times the regular rate	Most employees Exclusions: managerial and confidential employees, farm labour, domestic service, Crown employees and municipal policemen Exceptions ¹
British Columbia	Maximum hours: 8, 44 Overtime at 1 1/2 times the regular rate in excess of 40 in a week and 8 in a day	Industries in Schedule (e.g., manufacturing, mercantile, catering, construction, mining, barbering, elevator operators, hotel clerks, truck drivers, bus operators) Exclusions: managerial and confidential employees Exceptions ¹
Manitoba	Standard hours: 8, 40 after which 1 1/2 times the regular rate	Most employees Exclusions: professional employees, farming, domestic service, fishing, construction, travelling salesmen and a few other classes of employees
New Brunswick	Maximum hours: Employees under 18 9, 48 Overtime: 1 1/2 times the regular rate after 44 hours	Most employees Exclusions: domestic service or farming Exceptions ¹

Jurisdiction	Standards Set	Application
Newfoundland	Maximum hours: Shop Employees: 8, 40 Overtime: 1 1/2 times the regular rate in excess of 40 in a week and 8 in a day for shop employees. Other employees: 1 1/2 times the regular rate after 44 hours	Most employees Exclusions: farming and domestic service
Nova Scotia	Maximum hours: 48	Most employees Exclusions: professional employees, farm labour, domestic servants, certain trainees, certain types of salesmen Exceptions ¹
Ontario	Maximum hours: 8, 48 Overtime: 1 1/2 times regular rate after 44 hours on January 1, 1975	Most employees Exclusions: supervisory and managerial employees, professional employees, farm workers, domestic servants, construction, commercial fishermen, resident janitors or caretakers, and a few other classes of employees Exceptions ¹
Prince Edward Island	Maximum hours: 48; Exceptions: employees in the food processing industry during harvest season - 60 Overtime: 1 1/2 times regular rate after 48	Most employees Exclusions: those covered by a labour- management agreement, registered apprentices, farm labourers

Jurisdiction	Standards Set	Application
Québec	Standard hours: 45 after which 1 1/2 times the regular rate is paid. (The fishing and harvesting industries and watchmen are excluded from over- time provisions)	Most employees Exclusions: employees governed by decree, those covered by special minimum wage ordinances, farm workers, domestics and a few other minor groups
Saskatchewan	Standard hours: 8, 40 after which 1 1/2 times the regular rate Special provisions are set for a 4- day week: 10, 40 after which 1 1/2 times the regular rate is paid	Most employees Exclusions: northern area of province, managerial employees, farm workers, domestic servants, automobile salesmen, certain professions, commercial travellers, logging, road construction, certain handicapped employees, certain family members and a few other classes of employees Exceptions ¹
Northwest Territories	Standard hours: 8, 44 Maximum: 10, 54 Exception: mining and petroleum exploration; isolated trans- portation and tourist camps; 191 hours in a month, maximum 234 Overtime: 1 1/2 times the regular rate after standard hours	Most employees Exclusions: hunting or fishing guides

Jurisdiction	Standards Set	Application
Yukon Territory	Standard hours: 8, 40 Maximum: day, 10; week, 60; month, 260 Overtime: 1 1/2 times regular rate after standard hours Note: Persons employed in mines not to work in excess of standard hours	Most employees Exclusions: members of the employer's family, prospectors, travelling salesmen and a few other minor groups

¹ Different standards set
by regulation for some
industries.

8. Overtime Rates

Jurisdiction	Overtime Rates
Federal	1 1/2 times the regular rate after 8 or 40 hours
Alberta	1 1/2 times the regular rate after 8 or 44 hours
British Columbia	1 1/2 times the regular rate after 8 or 40 hours*
Manitoba	1 1/2 times the regular rate after 8 or 40 hours
New Brunswick	1 1/2 times the minimum rate after 44 hours*
Newfoundland	1 1/2 times the regular rate after 44 hours ¹ *
Nova Scotia	1 1/2 times the minimum rate after 48 hours ² *
Ontario	1 1/2 times the regular rate after 44 hours ³
Prince Edward Island	1 1/2 times the minimum rate after 48 hours ⁴ *
Québec	1 1/2 times the minimum rate after 45 hours ⁵ *
Saskatchewan	1 1/2 times the regular rate after 8 or 40 hours
Northwest Territories	1 1/2 times the regular rate after 8 or 44 hours
Yukon Territory	1 1/2 times the regular rate after 8 or 40 hours

*Set by minimum wage orders.

- ¹Newfoundland -- Not applicable to farm workers. Shop employees governed by Hours of Work Act, 1 1/2 times the regular rate after 8 or 40 hours.
- ²Nova Scotia -- Road building and heavy construction, and employees in transport industry required to be away from home base overnight, 1 1/2 times minimum rate after 96 hours in two weeks.
- ³Ontario -- Highway transport, 1 1/2 times regular rate after 60 hours; local cartage, 1 1/2 times regular rate after 55 hours; road building, 1 1/2 times regular rate after 50 or 55 hours, depending on class of work; watermain construction, 1 1/2 times regular rate after 50 hours; seasonal employees not working more than 16 weeks in a year in fruit and vegetable processing industry and in hotel, motel, tourist resort, restaurant and tavern industry (in latter case, if provided with room and board), 1 1/2 times regular rate after 55 hours.
- ⁴Prince Edward Island -- Seasonal food processing, 1 1/2 times minimum rate after 60 hours.
- ⁵Québec -- Employees in fishing or fish processing, watchmen and employees engaged in fruit and vegetable picking and processing during the harvest season are not entitled to overtime pay; forest operations, 1 1/2 times the minimum rate after 48 hours; sawmills, 1 1/2 times the minimum rate after 50 hours; retail food trade, 1 1/2 times the minimum rate after 40 hours.

WEEKLY REST-DAY

The Canada Labour Code (Section 31) provides that employees must be given at least one full day of rest in the week, on Sunday, wherever possible.

Two exceptions from this general rule are provided for in the regulations. A weekly rest-day does not need to be granted where working hours are averaged over a specified period.

Where working hours in excess of 48 in a week are allowed under a permit from the Minister of Labour, the Minister may specify in the permit that a weekly rest need not be scheduled, as required by the Code, and may prescribe alternative periods of rest.

Six provinces -- Alberta, British Columbia, Manitoba, New Brunswick, Québec and Saskatchewan -- provide for a weekly rest-day but the provisions vary in scope. These provisions are applicable to most employees within each jurisdiction whereas the weekly rest-day provisions in Newfoundland, Nova Scotia and Ontario are restricted to a few groups of employees.

The Alberta Labour Act requires all employed persons except farm workers and domestic servants to be given a day of rest in each consecutive period of seven days, unless the Board of Industrial Relations orders that the hours of rest be allowed in two periods or that a longer period than 24 hours be granted. The Act enables the Board to make special provisions for days of rest in industries which ordinarily operate at least one shift on each day of the week, and permits a consecutive rest period to be granted every four weeks or in relation to some other work period which the Board considers proper. The Board has made special provision for accumulated days of rest in the highway and railway construction, geophysical exploration, land surveying, brush clearing, oil well drilling, oil well service and pipeline construction industries, for employees of rural municipalities engaged in road work, and for cooks, night watchmen, etc., in lumber camps.

The general order under the British Columbia Minimum Wage Act provides for a rest period of 32 consecutive hours weekly. This order applies to most employees not covered by special orders. Farm labourers and domestic workers are not covered by these provisions. The orders governing the logging, sawmill, woodworking and Christmas tree industries, ship-building, first aid attendants, patrolmen employed by private agencies, taxi-cab drivers, resident caretakers and funeral parlours also require a 32-hour rest period to be granted. Different arrangements may be made on application of the employer and employees concerned, if the Board of Industrial Relations approves.

In Manitoba, the Employment Standards Act provides that a weekly day of rest, if possible Sunday, must be granted to most employees. Exempted are farm workers; independent contractors; persons employed in agriculture, fishing, fur farming, dairy farming or growing of horticultural or market garden products for sale; domestics in a private home; specified volunteer workers; beneficiaries under a rehabilitation or therapeutic project given employment; students of professions; professionals; watchmen, janitors and firemen living in the building in which they are employed; managers and supervisory employees; repair workers in emergencies; and persons employed for not more than three hours on a weekly rest-day merely for the purpose of looking after horses as part of their usual duty. The Minister of Labour is given discretion to exempt a particular undertaking from the application of weekly rest provisions for a fixed period or indefinitely. Where a plant is exempted, each employee must be given an additional holiday without pay for each weekly day of rest to which he would have been entitled except for the permit of exemption, and the holidays may be accumulated.

Under the Newfoundland Weekly Day of Rest Act, an employer is required to grant his employees a weekly rest period of at least 24 consecutive hours, wherever possible on Sunday. The requirement does not apply to employees engaged in emergency work, or to persons employed solely in senior managerial capacities, as defined by regulation. The latter group has been defined to include managers, superintendents, supervisory personnel who themselves are not supervised, and members of specified professions.

Any employer or class of employers may be exempted by regulations, subject to such conditions as may be prescribed. Currently excluded are employers operating in remote areas whose employees have given the employer written notice that they do not wish a rest period; employees engaged in catching, handling and processing herring; and certain other narrowly defined groups in the fishing, pulp and paper and mining industries.

The Minister of Manpower and Industrial Relations may grant a permit exempting an employer from compliance with the Act for a period not exceeding 30 days in case of accident, urgent and necessary work to be done to premises or equipment, abnormal pressure of work, or danger of loss of perishables. The Minister may cancel or renew a permit and there is no restriction on the number of permits or renewals that may be granted to an employer. Where a permit is issued, an employee accumulates a period of holidays equivalent to the missed rest

periods, with or without pay, in conformity with the pay provisions applicable to the missed rest periods. The employer must allow the accumulated holidays to be taken within 30 days of the expiry or the renewal of a permit.

The Newfoundland Hours of Work Act, which applies to shops throughout the province, requires shop assistants to be given a day off each week in addition to Sunday, except in the weeks in which one of the eight general holidays occurs. In the weeks in which one of the five other specified holidays occurs, they must be given a day off in addition to Sunday and the holiday.

The New Brunswick Minimum Employment Standards Act requires employers to give their employees a weekly rest of at least 24 consecutive hours, to be taken if possible on Sunday. Where a weekly rest is impracticable, the Minister of Labour may permit rest periods to accumulate and to be taken later, either part at a time or all together. The only employees not covered are farm workers, domestic servants, employees required to cope with an emergency and part-time workers who are not usually employed more than five hours in a day. Certain groups of employees may be designated by the Lieutenant-Governor in Council as being outside the scope of the Act.

In Nova Scotia, employees in industrial undertakings (e.g., mining, manufacturing, construction) must be granted a rest period of at least 24 consecutive hours in every period of seven days, preferably to all employees simultaneously on Sunday. This provision may be exceeded in continuous processes.

In Ontario, in cities of 10,000 or more people, workers in hotels and restaurants must be allowed a weekly rest-day, Sunday if possible. Watchmen, janitors, foremen, and those employed for five hours or less in a day are exempted.

In Québec, Minimum Wage Order 4, applying generally to all industries within the scope of the Act not covered by special orders, provides for a weekly rest of at least 24 consecutive hours for the employees covered by its provisions. Farm workers, domestic servants and employees covered by decrees under the Collective Agreement Decrees Act are the only workers not within the scope of the Minimum Wage Act. The four special minimum wage orders also provide for a weekly rest of 24 consecutive hours. A regulation under the Québec Weekly Day of Rest Act, states that persons employed in hotels, restaurants or clubs, in places of at least 3,000 population, must have 24 consecutive hours of rest in a week.

In the Québec district, the inspector may permit two periods of 18 hours each instead of one 24-hour period. Where there is only one cook, the 24-hour rest may be replaced by two 12-hour periods.

The Saskatchewan Labour Standards Act provides for a weekly rest of at least 24 consecutive hours, wherever possible on Sunday. Exempted are workers employed in farming, ranching or market gardening, domestic servants, firemen, managerial employees, family employees employed in family undertakings and employees who are not usually employed for more than five hours in a day. The Minister of Labour may by permit exempt an employer from compliance with the weekly rest requirement for a specific period not exceeding one year. Any class of employers or employees may be excluded by regulations of the Lieutenant-Governor in Council, subject to such conditions as may be prescribed.

The Labour Standards Ordinance of the Northwest Territories provides that, unless an exception is made by regulations, employees must be given at least one full day of rest in each week and that the normal day of rest must be Sunday wherever practicable. In the Yukon each employee has two full days of rest in the week and, wherever practicable, Sunday shall be one of the normal days of rest in a week.

ANNUAL VACATIONS WITH PAY

The Canada Labour Code, Part III, Division III provides for a vacation with pay of at least two weeks in respect of every year of employment. Vacation pay is four per cent of wages for the year in which the employee establishes his claim to a vacation.

A year of employment, under the federal law, must be continuous with one employer, and may be a 12-month period commencing with the day the employee began to work for the employer or any subsequent anniversary of that date, or it may be a calendar year or another year approved by the Minister of Labour.

All provinces have annual vacation legislation. The provisions regarding annual vacations with pay are contained in the Alberta Labour Act, Part III, Division 2, and in two orders under it (a general order and a special order for the construction industry); in the Ontario Employment Standards Act, 1974, Part VIII and regulations; in Québec Minimum Wage Order 3; in the Saskatchewan Labour Standards Act, Part I, and regulations; and in the Prince Edward Island Labour Act. British Columbia provides for annual vacations with pay and public holidays in one statute, the Annual and General Holidays Act. Manitoba, New Brunswick and Newfoundland have separate annual vacations laws. The Nova Scotia Labour Standards Code contains the vacation with pay provisions. Vacation with pay provisions are also contained in most decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act. Some industrial standards schedules make provision for pay in lieu of annual vacations.

Labour Standards Ordinances cover annual vacations for the two territories, consisting of at least two weeks per completed year of employment.

The Canada Labour Code applies to industries within federal jurisdiction and the only employees excluded are those who are managers or superintendents or who exercise management functions, and members of the medical, dental, architectural, engineering and legal professions.

The provincial and territorial laws govern employees in employment within the jurisdiction of the province, with the exception of the classes of employees noted below. The Newfoundland Act provides for the exemption of employees or classes of employees by order of the Lieutenant-Governor in Council. No regulations have yet been made.

Farm workers are excluded in all jurisdictions except Newfoundland and the Northwest Territories. In addition, British Columbia excludes persons employed in horticulture, and Manitoba and Saskatchewan, those employed in ranching and market gardening. (In Alberta, Ontario, Prince Edward Island and Nova Scotia, workers in certain occupations related to farming are covered. Similarly in Saskatchewan, the Act applies to egg hatcheries, green houses and nurseries and bush clearing operations, and in Manitoba to landscape gardening and growing flowers, plants, ornamental shrubs and trees). Domestic servants are exempted in all provinces except Newfoundland, Prince Edward Island and Saskatchewan. Certain provisions of the Saskatchewan Act do not apply to employees employed in an undertaking in which only members of the employer's family are employed. Certain categories of employed students are excluded in Ontario and Québec. Also excepted are workers employed in commercial fishing in Nova Scotia, Ontario and the Northwest Territories.

Professional workers are excluded in British Columbia, Nova Scotia and Ontario. Salesmen paid entirely by commission and other special categories of salesmen, such as real estate and insurance agents are outside the scope of the Alberta and Nova Scotia vacation provisions. These same two provinces exclude real estate salesmen. Part-time workers employed 24 hours or less in a week are not covered in New Brunswick or Prince Edward Island; and those employed for eight hours or less in a week are exempted from the Alberta order. Nova Scotia also specifically excludes teachers.

The large group of workers governed by collective agreement decrees are outside the scope of the Québec vacation order. Workers governed by a collective agreement in British Columbia are exempted from the Act if the Minister of Labour approves the vacation provisions of the agreement.

The length of the vacation period and the vacation pay requirements in the various jurisdictions are shown in Table 9.

In Saskatchewan, an employee is entitled to three weeks annual vacation after one year of employment. Effective July 1, 1975 an employee with 13 years of service became entitled to a four-week vacation. During the following four years the length of the qualifying service would diminish by one year; thus after July 1, 1978, the entitlement to a four-week vacation would be earned after 10 years and each subsequent year of employment.

As indicated in the table, Alberta and Manitoba require the payment of regular pay for the vacation period. Regular pay means the pay the employee would have earned for his normal hours of work during the vacation period and includes the cash value of board and lodging, where provided.

In the other jurisdictions, vacation pay is a percentage of the employee's earnings for the period during which he establishes his right to a vacation. The Acts vary in what is included as earnings.

In Québec, if a worker has not completed a year's service for the same employer, he is entitled to a continuous vacation of one day for each working month. Similarly, in Saskatchewan, regulations provide that, in order to make the vacation entitlement date of his employees uniform, an employer may grant to an employee with less than a year's service a continuous vacation of one day for each month of employment. The Board of Industrial Relations in Alberta may, in making a vacation pay order, require an employer to give an employee who has not completed a year of employment a vacation in proportion to the time worked.

Most of the laws specify the working time constituting a year of employment. In British Columbia and New Brunswick, a year's service consists of not less than 225 working days (in New Brunswick, working days or shifts). In Manitoba, an employee is held to have completed a year's service if he has worked not less than 95 per cent of the regular working hours during a continuous 12-month period. In Alberta, Newfoundland, Nova Scotia and Prince Edward Island, the employee must have worked 90 per cent or more of the working time during the year (of the regular working days in the establishment in Alberta and of regular working hours in Newfoundland, Nova Scotia and Prince Edward Island). In the territories a "year of employment" is defined as continuous employment of an employee by one employer for a period of 12 consecutive months beginning with the date employment began or any subsequent anniversary date.

Where an employee has worked less than the prescribed working time for a year's continuous service and continues to work for the same employer, he is entitled to a vacation on a pro rata basis in Alberta, and to accrued vacation pay for the period worked during the year in British Columbia, Manitoba, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island, Northwest Territories and the Yukon Territory. The vacation pay is payable in New Brunswick and Prince Edward Island not later than the next regular pay period after the end of the vacation pay year; in Manitoba, on the anniversary date of the workman's employment; in Newfoundland, within a week after the anniversary date; and in the other two provinces, within a month after the anniversary date.

The employer may determine the time when each of his employees may take the annual vacation to which he is entitled, within certain limits laid down by law. The vacation must be given in New Brunswick not later than four months after June 30; in Manitoba and Saskatchewan within 10 months, and in the federal jurisdiction, British Columbia, Newfoundland, Nova Scotia, Ontario and Prince Edward Island not later than 10 months after the date on which the employee becomes entitled to a vacation; in Québec within 12 months, and in Alberta not later than 12 months after the date of entitlement. In the Yukon and Northwest Territories, the vacation must be granted not later than 10 months after the date on which the employee becomes entitled to it. Vacation pay must be given at least one day before the vacation is to begin or at an earlier date, if the regulations so prescribe.

Nine jurisdictions require an employer to give notice to the employee of when his vacation is to begin. The minimum period of notice required is one week in Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island; two weeks in the federal jurisdiction and Saskatchewan; 15 days in Manitoba; and 16 days in Québec. Under the Canada Labour Code, and in Manitoba, Newfoundland and Saskatchewan, another period of notice may be substituted by agreement. In Alberta, the employer must give the employee one week's notice, if agreement cannot be reached regarding the date on which the vacation is to commence.

An employer in a federal undertaking is required to pay his employees their vacation pay during the 14 days before the beginning of the vacation, except in cases where it is impracticable to do so and the custom of the establishment is to pay vacation pay on the regular payday during or immediately following an employee's vacation. Most of the provincial laws require vacation pay to be paid at least one day before the vacation begins. The Québec order simply states that vacation pay is to be paid before the employee's departure on vacation. In Saskatchewan, an employer must pay an employee his pay during the 14 days immediately preceding the beginning of the vacation.

The Canada Labour Code and several of the provincial laws stipulate that an employee's annual vacation is to be extended by one day in lieu of a general holiday that occurs during the vacation. (In Manitoba, Newfoundland and Saskatchewan, a general holiday is defined as a day for which he is entitled to be paid wages without being present at work.) The federal and Saskatchewan laws provide further that for the extra day the employee is to be paid the wages to which he is entitled for the holiday.

The Yukon Ordinance provides that, if a general holiday occurs during an employee's vacation, the vacation is to be extended by one day in lieu of the holiday, and that the employee must be paid the wages to which he is entitled for the holiday, in addition to his vacation pay. The Northwest Territories Ordinance states that, where a general holiday occurs during an employee's vacation, the vacation is not to be extended, and no additional holiday or wages must be given to the employee.

Under the Canada Labour Code and all the provincial laws, workers are entitled to vacation pay on termination of employment during the working year. In most jurisdictions vacation pay must be paid immediately on termination of employment. In Ontario and Newfoundland, vacation pay is payable on termination or within one week; in Nova Scotia, within 10 days; in New Brunswick and Prince Edward Island, by the next regular payday following termination of employment and in Saskatchewan within 14 days after termination. In Newfoundland, if the employee is not entitled to an annual vacation he shall receive his pay within two pay periods or one month of his vacation whichever is earlier.

In Alberta, employers in the construction industry must give each employee (except office staff) vacation credits at the end of each regular pay period. The vacation credits (4 per cent of the employee's regular earnings) are to be recorded in the employer's payroll. The employee must be given the amount of money equivalent to his accrued vacation credits on December 31 or on termination of employment. If he is entitled to an annual vacation, he must be paid his vacation pay the day before his vacation commences.

In both Territories when employment is terminated during a year, the employee is entitled to any vacation pay owing to him in respect of a previous completed year of employment and to 4 per cent of his wages for the period he has worked during the year. An employee is not entitled to vacation pay, however, unless he has been continuously employed for 30 days or more.

When a business changes hands, an employee is considered to have been in continuous employment before and after the transfer.

The Yukon Ordinance excludes from its annual vacation provisions employees who are members of the employer's family.

9. Annual Vacation and Vacation Pay

Jurisdiction	Length of Annual Vacation	Vacation Pay
Federal	2 weeks	4% of annual earnings
Alberta	2 weeks	regular pay
British Columbia	2 weeks	4% of annual earnings
Manitoba	2 weeks; 3 weeks after 5 years' service	regular pay
New Brunswick	2 weeks	4% of annual earnings
Newfoundland	2 weeks	4% of annual earnings
Nova Scotia	2 weeks	4% of annual earnings
Ontario	2 weeks	4% of annual earnings
Prince Edward Island	2 weeks	4% of annual earnings
Québec	2 weeks	4% of annual earnings
Saskatchewan*	3 weeks; 4 weeks after 14 years	3/52 of annual earnings
Northwest Territories	2 weeks	4% of annual earnings
Yukon Territory	2 weeks	4% of annual earnings

*Three weeks after one year's employment. Staged reduction to result in 4 weeks after 10 years as of July, 1978.

GENERAL HOLIDAYS

The federal jurisdiction, seven provinces -- Saskatchewan, Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia and Ontario -- and the two territories, have legislation of broad application dealing with paid general holidays.

Federal

Under the Canada Labour Code, Part III, Division IV, eight general holidays in a year are to be observed as paid holidays -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Code provides also that, under certain conditions, an alternative holiday may be substituted for any of the eight holidays specified.

Should a holiday occur on a day on which an employee does not normally work, he must be granted a day off with pay in lieu of the holiday, either at a time convenient to him and his employer or by the addition of a day to his annual vacation.

If Christmas, New Year's Day, Dominion Day or Remembrance Day fall on a Saturday or Sunday, that is a non-working day for an employee, he must be given a holiday with pay on the working day immediately before or after the general holiday. These provisions regarding alternative days off do not apply, however, to employees covered by a collective agreement that entitles them to at least eight paid holidays a year.

The Code lays down the general principle that an employee in a federal undertaking who does not work on a holiday is entitled to his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of the wages he would have earned at his regular rate for his normal working day. The regular rate of wages for an employee whose hours of work vary from day to day or who is paid other than on an hourly or daily basis is the average of his daily earnings, exclusive of overtime, for the days he worked during the four weeks immediately preceding the holiday, or an amount calculated by the method established by the collective agreement.

An employee in a federal undertaking who is required to work on a general holiday is entitled to his regular wages for the day and in addition, to time and one-half his regular rate for all time worked. In effect, he is paid two and one-half times his usual rate.

These holiday provisions do not apply to superintendents, managerial employees or members of designated professions.

Different provisions apply to employees employed in continuous operations who are required to work on a holiday. A "continuous operation" is defined to include any industrial establishment in which in each seven-day period operations normally continue without cessation until the end of the regularly scheduled operations for that period; the operation of trains, planes, ships, trucks and other vehicles; telephone, radio, television, telegraph or other communication or broadcasting services; or any other operation normally carried on without regard to Sundays or holidays.

An employee who works on a holiday must be paid his regular wages for the day and must, in addition, be paid time and one-half his regular rate for the time worked, or he must be granted a holiday with pay at some other time, either a day, added to his annual vacation or another day convenient to him and his employer or, where a collective agreement so provides, be paid for the holiday on his next non-working day.

There are some situations in which an employee is not entitled to holiday pay. An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment with an employer, but if he is required to work on a holiday he must be paid time and one-half his regular rate. If he is employed in a continuous operation, he may be paid at his regular rate for work done on a holiday.

A further exception is that an employee is not entitled to pay for a general holiday on which he does not work if he is not entitled to wages for at least 15 days during the 30 calendar days immediately preceding the holiday. An employee in a continuous operation is not entitled to pay for a general holiday if he did not report for work in response to a call from the employer, or if he makes himself unavailable for work in accordance with the conditions of employment prevailing in the establishment in which he works.

A general regulation provides that a longshoreman employed by an employer who is a member of a "multi-employer unit" is entitled to holiday pay if he is entitled to wages for at least 15 days or 120 hours in the 30 calendar days immediately preceding a general holiday. Pay for the holiday may not be less than eight times the employee's basic hourly wage rate.

A longshoreman employed by an employer who is not a member of a "multi-employer unit" must be paid, on each payday, in lieu of general holidays, an amount equal to 3 per cent of his basic wage rate multiplied by the number of hours he has worked for the employer in the pay period.

An employee who is required to work on a general holiday is to be paid at not less than one and one-half times his basic rate of wages for the time worked by him on that day.

Alberta

In Alberta, a general holiday order requires employers to give their employees eight paid holidays a year -- New Years's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Crown in right of Alberta and its employees, domestic servants in private homes, farm labourers (other than those in commercial undertakings), municipal policemen and various categories of salesmen are excluded from entitlement to public holidays.

The rule is that if one of the eight general holidays falls on a regular working day for the employee and he does not work on that day, he is entitled to his regular wages for the day.

If the employee is paid by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, the employee must receive the equivalent of his average daily earnings, exclusive of overtime, for his term of employment or for the two months he worked immediately preceding the week in which the holiday occurred.

Where an employee is required to work on a general holiday, he must be paid his regular pay for the day and, in addition, time and a half his normal wages for the time worked. Alternatively, he must be given a holiday with pay at some other time not later than his next annual vacation or on termination of employment, whichever occurs first.

An employee is not entitled to a holiday with pay if he has not worked for his employer for at least 30 days in the preceding 12 months; or if he does not work on the holiday when he has been required or scheduled to do so; or if he is absent without the employer's consent on either of the working days immediately preceding or following the holiday. If such an employee works on a general holiday, he must be paid at least his normal wages for all time worked.

If an employee is not required to work on a general holiday, he must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid his normal wages for the day, in addition to all other wages due him.

Construction workers in Alberta, with the exception of office staff, must be given holiday pay in a lump sum in lieu of being given a holiday with pay on each of eight general holidays.

An employer in the construction industry is required to pay each of his employees a sum equal to 3.2 per cent of his ordinary pay for the period of his employment or the period since he was last paid such sum. Pay in lieu of holidays must be given on December 31 of each year or on termination of employment.

British Columbia

In British Columbia, an order made under the Annual and General Holidays Act provides for nine paid general holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, British Columbia Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. Another day may be substituted for any of the listed holidays.

The order does not apply to employees covered by a collective agreement under the Labour Relations Act. Also excluded are: farm workers; horticultural workers; domestic servants; professional employees and trainees; salesmen of automobiles and other vehicles, mobile homes and heavy duty industrial equipment; and employees exempted by regulation from the Minimum Wage Act (e.g., supervisory, managerial and confidential employees, policemen, firemen, commercial travellers, watchmen, caretakers, maintenance workers, employees on fishing boats, employees of the Pacific Great Eastern Railway, and handicapped employees).

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay at some other time not later than his next annual vacation, or the day on which he is required to be paid vacation pay where he has not earned an annual vacation, or on termination of employment, whichever occurs first.

An employee who is not required to work on a general holiday that would otherwise be a working day must be paid his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis he must receive the equivalent of a normal day's pay.

Where an employee's working hours vary from day to day, or where his wages are not calculated on a time basis, his pay for a general holiday is to be deemed to be the average of his daily earnings, exclusive of overtime, for the days he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid at his regular rate for all hours worked, in addition to all other wages due him.

The general rule is that, where an employee is required to work on a holiday, he must be paid not less than time and one-half his regular rate of pay for all hours worked and, in addition, must be given a holiday with pay at some other time not later than his next annual vacation or the day on which he is required to be paid his accrued vacation pay, or on termination of employment, whichever occurs first.

Where an employee employed in a "continuous operation" is required to work on a holiday, he must, in addition to his regular rate of pay for the day, either be paid not less than time and one-half his regular rate for all hours worked or be given a holiday with pay at some other time. A "continuous operation" is defined as an operation or service normally carried on without regard to Sundays or public holidays.

For purposes of these provisions, an employee's "regular rate" is to be deemed to be the average of his hourly earnings, exclusive of overtime, for the hours he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment. An employee is also excluded from holiday benefits if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

Where certain employees of an employer are bound by a collective agreement, and other employees of the same employer are entitled to the general holidays provided for in the order, the employer may, with the approval of the Board of Industrial Relations, substitute a holiday specified in the agreement for a general holiday under the order, so that all his employees will be entitled to a holiday on the same day.

Manitoba

In Manitoba, the Employment Standards Act provides for seven paid general holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. Under certain conditions, another day may be substituted for any of the holidays named in the Act. A special Act deals with the observance of Remembrance Day.

The holiday provisions do not apply to independent contractors; persons employed in agriculture, fishing, fur farming, dairy farming or growing horticultural or market garden products for sale; domestics in private homes; volunteers working in a religious, philanthropic, political or patriotic institution; beneficiaries under a rehabilitation or therapeutic project who are given employment; or students and practitioners of professions governed by statute.

An employee who does not work on a holiday that falls on a regular working day is entitled to be paid at least the equivalent of the wages he would have earned on that day. When an employee's wages vary from day to day, his holiday pay must be at least equivalent to his average daily earnings, exclusive of overtime, for the days he worked during the 30 calendar days preceding the holiday. The holiday pay must be paid whether or not the employee is on the employer's pay-roll at the time of the general holiday, unless the employee has voluntarily terminated his employment before that day.

Should a holiday occur on a day that is a non-working day for the employee, he must be granted a day off with pay in lieu of the holiday not later than at the time of his next annual vacation or at a time convenient to him and his employer.

If New Year's Day, Dominion Day or Christmas Day falls on a Saturday or Sunday that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately preceding or following the holiday.

An employer must not require an employee who has not worked on the holiday to work on another day in the holiday week that would otherwise be his day of rest, unless he is paid one and one-half times his regular rate for the work done on that day.

An employee who is required to and does work on a general holiday is entitled to his regular pay for the day and, in addition, to one and one-half times his regular rate for the work done on that day.

An employee is not entitled to holiday pay in the following situations: if he has not earned wages on at least 15 days during the 30 calendar days immediately preceding the holiday; if he did not report for work in response to a call from the employer on the day of the general holiday, except where he is dismissed or laid off by his employer or ill; or if he is absent without the employer's consent on the regular working day immediately preceding or following the holiday, unless absent because of established illness. However, an employee who is not entitled to holiday pay for any of the above reasons must be paid at the overtime rate if he works on the holiday.

Employees in the construction industry are entitled to a lump sum in lieu of paid holidays. Each employee must be paid 2 per cent of his total gross wages, exclusive of overtime, for the calendar year. This amount must be paid by December 31 or on termination of employment. Where an employee in the construction industry is required to work on a holiday, he must be paid at one and one-half times his regular rate for the time worked, in addition to the lump sum.

Special provisions are also applicable to employees in a continuously operating plant, seasonal industry (except construction), place of amusement, gasoline service station, hospital, hotel or restaurant, or in domestic service other than in private homes. For these employees, equivalent compensatory time off may be substituted for overtime pay for holidays worked. The time off must be granted within 30 days and the employee must be given at least two days' notice of his day off. At the request of the employee, he and his employer may agree to a later date.

A special act in Manitoba deals with the observance of Remembrance Day. Work must not be performed on the holiday except in farming, in certain listed essential services, in continuously operating plants, or in emergency circumstances on permit from the Minister of Labour.

An employee who is required to work on Remembrance Day must be paid at least his regular rate of wages and must be granted a day off with pay within 30 days before or after the holiday. In lieu of being given a day off, an employee must be paid twice his regular rate for the time worked. Where an employee is called in to work, he must be paid for the time worked or for not less than half the normal working hours of a regular working day, whichever is greater.

New Brunswick

In New Brunswick, provisions have been made for six paid general holidays under the Minimum Employment Standards Act -- New Year's Day, Dominion Day, Labour Day, Good Friday, Christmas Day and New Brunswick Day (first Monday in August).

The holiday provisions do not apply to employees who have worked less than 90 days in the previous 12 months; who have not worked for all or part of at least 15 days during the 30 calendar days immediately preceding the holiday; who fail to work on the scheduled work day immediately preceding or following the holiday; who after agreement, without reasonable cause, fail to report for and perform the work; or who work under an agreement whereby they elect to work when requested to do so.

The employer shall give the holiday and pay to the employee his regular wages for each public holiday. Upon mutual arrangement, another day may be substituted, not later than the next annual vacation, for a public holiday. When a holiday falls upon a non-working day, or in an employee's vacation, an employer shall pay the employee his regular wages or designate another working day. Work on a public holiday is compensated at one and one-half times the regular rate and is not taken into consideration in calculating overtime. If an employee ceases his employment before a substituted day is taken, the employer shall pay to him the wages for that day. Where wages vary from day to day, the pay for a public holiday shall not be less than the average daily wage earned over the preceding 30 calendar days.

Where an employee is employed in a hotel, motel, tourist resort, restaurant, tavern or any continuous operation, and the employee, because of the nature of the operation, is required to and works on a public holiday, the employer shall pay the employee one and one-half times his regular rate or pay him his regular rate and substitute another working day for the public holiday.

Nova Scotia

The Nova Scotia Labour Code provides for five paid general holidays -- New Year's Day, Good Friday, Dominion Day, Labour Day and Christmas Day. Under certain conditions, another day may be substituted for any of these holidays.

The holiday provisions do not apply to domestic servants in private homes, professional practitioners and trainees, various categories of salesmen, employees covered by a collective agreement, fishermen, fish packing employees, certain workers in the petro chemical industry, and persons working in specific areas of primary farming.

An employee is entitled to a holiday with pay for each general holiday falling within any period of his employment.

If the employee is hired by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, he must receive the equivalent of the wages he would have earned at the regular rate of wages for his normal working day.

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately following the general holiday, or on the day immediately following his annual vacation or on a day agreed upon by the employee and his employer.

Where an employee is required to work on a holiday he must be paid at a rate equal to one and a half times his regular rate of wages for the time worked by him on that day. Where an employee employed in a "continuous operation" is required to work on a holiday, he must be paid as described above or he may be granted a holiday with pay on the working day immediately following his annual vacation, or on another day agreed upon by the employee and the employer.

An employee is not entitled to a holiday with pay if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday; or if he is absent on either of the working days immediately preceding or following the holiday. (This provision is not applicable if the employer has directed him not to report on either day.) An employee in a continuous operation is not entitled to be paid for a general holiday on which he did not report for work after having been called upon to work on that day.

Ontario

The Ontario Employment Standards Act, 1974, provides for seven public holidays as of January 1, 1975. The holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. An employer shall give to an employee a holiday on and pay to the employee his regular wages for each public holiday.

The holiday provision does not apply to an employee who is employed for less than three months; has not earned wages on at least 12 days during the four weeks immediately preceding a public holiday; fails to work his scheduled regular

day of work preceding or following a public holiday; has agreed to work on a public holiday and who, without reasonable cause, fails to report and perform the work; or is employed under an arrangement whereby the employee may elect to work or not when requested to do so.

This provision likewise does not apply to an employee of a telephone company owning or operating a telephone system, switchboard or exchange serving fewer than 300 subscribers; managers and supervisors; hunting or fishing guides; employees in landscape gardening, mushroom growing, flower growing for retail or wholesale or the growing, transporting and laying of sod; homeworkers; students employed as supervisors or instructors of children or at a children's camp; a student directly employed in a recreational program operated by a charitable organization; resident superintendent, janitor or caretaker; commissioned salesmen (excluding route salesmen); primary farm labourers; or funeral directors or embalmers.

Where a public holiday falls upon a working day for an employee, an employer may with the agreement of the employee or his agent substitute another working day for the public holiday not later than the employee's next annual vacation.

When the holiday falls on an employee's non-working day or in his vacation, the employer may pay the employee his regular rate of pay for that day or substitute a working day not later than the employee's next annual vacation in lieu thereof.

Where an employee works on a public holiday, he is entitled to not less than time and one-half for each hour worked plus his regular wages for that day. Work on a public holiday is not taken into consideration for calculating overtime in that week.

Where an employee works in a hotel, motel, tourist resort, restaurant, tavern, continuous operation or a hospital, and the employee is required to work and works on a public holiday, the employer shall pay the employee in accordance with the above, or pay the employee the regular rate for each hour worked and give to the employee a holiday on his first working day following his next annual vacation or on a working day agreed upon and pay his regular wages for that day.

If employment ceases before a substituted day is taken, the employer shall pay to the employee his regular wages for that day.

An employee working as a fruit, vegetable or tobacco harvester and who has been employed by his employer for a period of 13 weeks or more shall be entitled to a public holiday, except Victoria Day and Dominion Day in the years 1975 and 1976.

Saskatchewan

In Saskatchewan, a minimum wage order requires employees who do not work on any of nine public holidays to be paid their regular pay. For workers in the construction industry and in logging and lumbering, the order provides for payment of a lump sum in lieu of pay for the nine listed holidays. The nine holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day and Saskatchewan Day (first Monday in August).

When Christmas or New Year's Day falls on Sunday, the following Monday is to be observed as a holiday. When the Monday following Remembrance Day is declared a holiday, it is to be observed as a holiday under the order. By agreement between an employer and a trade union representing a majority of the employees in an appropriate bargaining unit, another working day may be substituted for any of the nine listed holidays. Where workers are not represented by a trade union, the Minister of Labour may by order permit a similar substitution, if he is satisfied that the employer and a majority of the employees are in favour of the change.

The order applies to all employees except managerial employees, employees employed in a family employee undertaking, employees in farming, ranching and market gardening (other than in egg hatcheries, greenhouses, nurseries, and brush clearing operations), and handicapped workers in sheltered workshops.

If required to work on a holiday, employees in almost all workplaces must receive, in addition to their regular pay for the holiday, time and one-half the regular rate for every hour or part of an hour worked; in effect, two and one-half times their regular pay.

A major exception to the above rule is that workers in hotels, restaurants, hospitals, nursing homes and educational institutions who are required to work on a holiday must be paid, in addition to their regular pay, time and one-half the regular rate. In addition to being paid their regular pay, full-time employees may be given time off equivalent to the hours worked on the holiday at regular rates plus one-half within four weeks.

Persons engaged in the operation of a well-drilling rig are required to be paid at their regular rate of wages, plus their normal pay for the day, for work performed on a holiday.

The order provides that, where an employee's wages, exclusive of overtime, vary from day to day, pay for a public holiday is to be calculated on the basis of his average daily wage, exclusive of overtime for the four immediately preceding days that bear the same name as the day on which the holiday occurs.

Workers in construction and in logging and lumbering who do not work on any of the nine specified holidays must be given holiday pay in a lump sum in an amount equal to 3.5 per cent of their gross wages for the calendar year, exclusive of overtime. Payment must be made on December 31 or on termination of employment, whichever occurs first. Where a majority of the employees in an appropriate bargaining unit are represented by a trade union, the union and the employer may, by agreement in writing, elect that the workers be paid regular wages for each holiday, instead of a lump sum payment.

Construction workers who work on the holiday must be paid, in addition to the lump sum payment, wages at the rate of time and one-half their regular rate for all time worked. The latter amount must be paid in the pay period in which it is earned.

Workers in the logging and lumbering industries who work on a public holiday must be paid regular pay for all time worked, in addition to the lump sum payment to which they are entitled.

The Territories

In both territories, employees are entitled to a holiday with pay in respect of each of the general holidays listed in the ordinance. Both ordinances provide for the same eight general holidays as are named in the federal Code but in the Yukon Ordinance a ninth holiday, Discovery Day, is provided for. Another holiday may be substituted for any of the listed holidays.

The Yukon Ordinance states that, where a general holiday falls on a Sunday, the Monday following is to be a holiday with pay.

The Labour Standards Officer may allow another holiday with pay to be substituted for a general holiday if another holiday is specified in a collective agreement or, where there is no collective agreement, if an employer applies for a substitution and the majority of the employees agree.

In the Northwest Territories, an employee is entitled to a holiday with pay only when a general holiday falls on a regular working day.

In the Northwest Territories, if an employee is required to work on a holiday, he must be paid his regular pay for the day and must, in addition, be paid at his regular rate of wages for the hours worked or he must be given a holiday with pay at a time convenient to him and his employer, not later than his next annual vacation or on termination of employment, whichever occurs first.

The Yukon Ordinance follows the Canada Labour Code, Part III (Labour Standards), in requiring, for work done on a holiday, payment of regular pay plus wages at the rate of time and one-half for the hours worked. This provision does not apply to custodial work or essential services as prescribed by regulations. A person employed in any such employment must be granted a holiday with pay at another time in lieu of a holiday on which he was required to work.

In the Northwest Territories, an employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a non-working day, unless he is paid at least double his regular rate of wages, and in the Yukon Territory at least one and one-half times his regular rate of wages for the time worked by him on that day.

The circumstances under which payment of holiday pay is not required differ in the ordinances.

In the Yukon, an employee is not entitled to pay in respect of a holiday on which he does not work (a) if the holiday occurs in his first 30 days of employment with an employer, or (b) if he is not entitled to wages for at least 15 days in the 30 calendar days immediately preceding the holiday, or (c) if he has not worked an average of 24 hours a week during the four-week period immediately preceding the week in which the holiday falls (excluding any period of annual vacation), or (d) if he did not report for work on the holiday after having been called to work, or (e) if, without his employer's consent, he did not report for work on either the day preceding or the day following the holiday.

Under the Northwest Territories Ordinance, an employee is not entitled to be paid for a holiday if he has not worked for his employer for at least 30 days in the preceding 12 months. Other exceptions are the same as in (d) and (e) above.

OTHER LEGISLATION DEALING WITH HOLIDAYS

Provisions in the minimum wage order of Manitoba deal with the question of pay for public holidays to the extent of prohibiting deductions from the minimum wage for time not worked on a holiday.

Workers are protected against a reduction in the minimum wage for time not worked on a general holiday (as listed above) which falls on a regular working day. Where an employee does not work on a holiday but does work the regularly scheduled hours on the days immediately preceding and following the holiday and on all the other working days in the week, he is to be deemed, for the purpose of determining the minimum amount of wages to be paid to him for that week, to have worked regular hours on the holiday. An employee does not lose the benefits of this provision through being absent on either the day before or the day after the holiday because of established illness or with the employer's consent.

Under the Municipal Act of British Columbia, shops in all municipalities must be closed on Christmas Day and the day immediately following, New Year's Day, Good Friday, Dominion Day, Victoria Day, Labour Day, Remembrance Day, the Queen's Birthday, Thanksgiving Day and any day designated as a provincial or municipal holiday. There is also legislation in Newfoundland requiring shops to be closed on 13 specified public holidays and on one additional holiday fixed by the municipality.

Under the New Brunswick Closing of Retail Establishments Act no retail establishments shall be open to the general public for the purpose of carrying on business on New Year's Day, Good Friday, Dominion Day, Sovereign's Birthday, Victoria Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day, Easter Monday, New Brunswick Day, or any day appointed by provincial statute or proclaimed by the Governor General or the Lieutenant-Governor as a general holiday within the province.

The Québec Commercial Establishments Business Hours Act requires shops to remain closed on New Year's Day, Easter Monday, St. Jean Baptiste Day or the day following if June 24

is a Sunday, Dominion Day or the day following if July 1 is a Sunday, Labour Day, Thanksgiving Day, Christmas Day or any other day fixed by proclamation of the Lieutenant-Governor in Council. Shops must not open before 1 p.m. on Boxing Day or on January 2.

Provisions prohibiting work on specified public holidays except with a permit, stipulating that certain holidays must be observed as paid holidays, or requiring the payment of an overtime rate for work done on specified holidays are regular features of the decrees under the Québec Construction Industry Labour Relations Act and Collective Agreement Decrees Act and of industrial standards schedules in Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan. These provisions, while regulating a considerable portion of industry, particularly in Québec, apply only to certain trades and areas in the province concerned. They are not dealt with in this publication.

TERMINATION OF EMPLOYMENT AND SEVERANCE PAY

The federal jurisdiction and eight provinces -- Alberta, Manitoba, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan -- have legislation requiring an employer to give notice to the individual worker whose employment is to be terminated. Five of these provinces place an equal obligation on the employee to give notice to his employer before quitting his job.

In addition, the Parliament of Canada, Manitoba, Nova Scotia, Ontario and Québec require an employer to give advance notice of a projected termination of employment or layoff of a group of employees.

The Canada Labour Code also provides for severance pay for employees with five years' service or more. No other jurisdiction has severance pay provisions.

In seven jurisdictions the legislation is part of the Labour Code: the Canada Labour Code, Part III, Divisions V.2, V.3 and V.4; the Alberta Labour Act 1973, Part III; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, 1974, Part XII; the Nova Scotia Labour Standards Code, sections 68-74; the Prince Edward Island Labour Act, Part II; and the Saskatchewan Labour Standards Act, Part IV. Newfoundland has a separate law, the Employment (Notice of Termination) Act. The provisions in Québec governing individual notice are contained in the Civil Code; notice of group termination requirements are laid down in Section 45 of the Manpower Vocational Training and Qualification Act and a general regulation made under it.

Federal

Individual Notice

Employees who have been continuously employed for three months or more are entitled to two weeks' notice of termination of employment or layoff. Regulations define circumstances in which notice is not required for layoff. In lieu of notice, the employer may pay an amount equivalent to two weeks wages at the employee's regular rate for his regular hours of work.

The requirement to give notice does not apply to superintendents, managers or members of listed professions, or where an employee is dismissed for just cause.

Where an employee continues to be employed for more than two weeks after the termination date specified in the notice, his employment must not be terminated, except with his written consent, unless notice is given again.

The Code takes into account the bumping provisions that may be contained in collective agreements. Where a collective agreement authorizes that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met either by giving at least two weeks' notice to the union and the employee and posting a copy of the notice in a conspicuous place in the establishment, or by giving pay in lieu of notice to the employee whose employment is actually terminated.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee. During the notice period the employee must be paid his regular wages for his regular hours of work.

Group Notice

The Code also requires that the employer give notice of group dismissals where the employment of 50 or more persons is to be terminated simultaneously or within a four-week period. Regulations may be made providing for advance notice where a lesser number of employees is being dismissed.

For purposes of group dismissals, layoff is equivalent to termination, except in circumstances determined by regulations.

The length of notice period varies according to the number of employees being dismissed:

50 - 100	8 weeks
101 - 300	12 weeks
over 300	16 weeks.

Superintendents and managerial employees are to be included in calculating the number of employees being dismissed. Regulations exclude employees from the group notice provisions when they are employed on a seasonal or irregular basis or under an arrangement whereby the employee may choose to work or not when requested to do so.

Advance notice must be given in writing to the Minister of Labour, with copies to the Department of Manpower and Immigration and the trade union. Where there is no union, notice must be given to the employees being dismissed, either in writing or by posting a notice in the establishment.

The notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment is to be terminated. The regulations require that the notice also include the name of the employer and any trade union acting as bargaining agent, the location at which termination is to take place, the nature of the industry, and the reason for termination. In addition, the employer and trade union must provide the Manpower and Immigration Department with whatever information it requests in order to assist the employees. Both are required to co-operate with that Department in order to facilitate the re-employment of the dismissed employees.

The requirement to give group notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employees or the operation of the establishment.

A Canada Labour Standards regulation defines industrial establishment for the purposes of group notice as all branches of an employer's business located in a regional division established under the Unemployment Insurance Act. Schedules outline what constitutes an industrial establishment for the CNR, CPR, Air Canada and CP Air.

Severance Pay

The Canada Labour Code requires an employer to give an employee who has completed five years of continuous employment severance pay upon termination of employment by the employer. The severance pay must be equivalent to two days' wages at his regular rate of wages for his regular hours of work for each completed year of employment that is within the term of his continuous employment by the employer, up to a maximum of 40 days' wages.

The employer is exempt from the severance pay provisions if, either before or immediately upon termination, the employee is entitled to a pension under a pension plan contributed to by the employer and registered in accordance with the Pension Benefits Standards Act. By the same token, the severance pay provisions do not apply if the employee is similarly entitled to a pension under the Old Age Security Act, or to a retirement pension under the Canada Pension Plan or the Québec Pension Plan.

General Provisions

The Canada Labour Code Standards Regulations define circumstances under which layoff is not considered termination of employment for purposes of individual and group notice and severance pay.

Notice is not required where the layoff is the result of a strike or lockout, is for a term of three months or less, or is made pursuant to the provision of a collective agreement that has the effect of regulating the size of the workforce.

In certain circumstances, a layoff of more than three months also does not constitute termination where the employer notifies the employee that he will be recalled on a fixed date or within a fixed period of up to six months and the employee is actually so recalled; or where, during layoff, the employee continues to receive payments from the employer in amounts mutually agreed upon, the employer continues to make payments to a pension plan, or the employee receives supplementary employment benefits or is entitled to do so.

Continuity for the purposes of group and individual termination, severance pay and maternity leave is not to be broken where an employee is absent from work because of a layoff that does not constitute termination or where the absence is permitted or condoned by the employer.

Alberta

Individual Notice

The Board of Industrial Relations may establish, by order, requirements for notice of individual termination. The minimum requirements are:

3 months but less
than 2 years . . . 7 days

2 years or more . . 14 days.

The Board may also make orders requiring payment in lieu of notice of termination; specifying where notice of termination is not required; exempting any class of employers or employees from the application of termination orders; prescribing how notice of termination is to be given and its form and content; and defining "termination" and "period" of employment.

These requirements do not apply to an employer and his employees where there is a custom, practice or agreement providing for a longer notice or upon payment of a greater sum of money in lieu of notice of termination of employment.

Neither these provisions nor any order of the Board affect the right of an employee at common law to be paid, or the duty imposed upon an employer to provide longer notice or a greater sum of money in lieu of termination of employment than that specified in an order of the Board.

Manitoba

Individual Notice

In Manitoba, an employer or employee in any work or occupation, except farming, must give notice of termination of employment and, except in the case of a person paid less frequently than once a month, the period of notice required is one regular pay period. If the employees are paid less often than once a month, reasonable notice must be given. Notice of termination is not required if an employee is hired for a fixed period unless the employment is, by mutual agreement, continued after the end of the period. Notice is also not required if the employment of an individual is terminated due to violent or improper conduct.

The requirements for giving notice do not apply if a general custom or practice prevails in an industry which is contrary to the terms of the act or where different conditions concerning notice are established by collective agreement. If employment is terminated during an employee's first two weeks in a job, notice is not required unless the employer and employee have agreed in writing that the requirements of the Act will apply.

An employer is permitted to establish a practice whereby employment may be terminated with a shorter period of notice than that provided for in the act, and the practice is considered to have been established one month after he has notified each of his employees in writing of the practice and has posted a notice setting out the terms of the practice. Each new employee must be informed of the practice by written notice at the time employment begins.

Complaints of failure to give the required notice may be made in writing to the Minister of Labour within a period of 90 days after employment is terminated. The Minister may himself inquire into it or may refer it to the board for investigation. A procedure is laid down in the Act for the settlement of such complaints.

Group Notice

Manitoba requires that advance notice of group dismissals where 50 or more employees are to be dismissed within a period of four weeks be given in writing to the Minister of Labour. Copies must be sent to the certified or recognized union. Where there is no union, the notice must be given to the employees being dismissed either in writing or by posting a notice in the establishment. The written notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment will be terminated. Regulations may require that the notice include additional information. In addition, there must be co-operation with the Minister to re-establish the employment of the dismissed employees.

The notice period varies with the number of employees to be dismissed:

50 - 100	8 weeks
101 - 300	12 weeks
over 300	16 weeks.

Notice for group termination does not apply when the employees are employed for a definite term or task of 12 months or less; laid off according to regulations*, or after refusing reasonable alternate work offered by the employer or by a seniority system; laid off and do not return to work within a reasonable time after being requested to do so by their employer; on strike or locked out; employed in the construction industry; guilty of wilful misconduct, disobedience or neglect of duty; employed under contract that is or has become impossible to perform or is frustrated by a fortuitous or unforeseeable event; employed under an arrangement whereby they may elect to work or not to work for a temporary period; or at the age of retirement according to the established practice of the employer. The Minister may, by order, make exemptions from the provisions of the Act dealing with group termination if the application of the provisions is unduly prejudicial to the interests of the employees or employer or if it would be seriously detrimental to the industrial establishment.

*A layoff is not considered a termination of employment where (1) the industry is seasonal in nature; or (2) the employee is laid off for a reasonable period, then recalled; or (3) in a non-seasonal industry, the layoff is of reasonable length, the employee is told the date on which he is to be recalled, and he is recalled on or before that date.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee or if there is a collective agreement in force which authorizes changes or variations.

The employer may terminate the employment of an employee without notice if he notifies the employee in writing to this effect and pays him the equivalent of the wages he would have earned for working regular hours during the notice period as well as any unpaid vacation pay to which the employee is entitled.

Any employee who wishes to terminate his employment prior to the expiration of the period of notice must give written notice of such action to his employer.

The employer and the trade union representing the employees affected by the termination must co-operate with the Minister in any action or program aimed at facilitating the re-establishment in employment of the employees involved.

The requirement to give notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employer, employees or the operation of the establishment.

Newfoundland*

In Newfoundland, both the employer and the employee are required to give notice of termination of employment. Where an employee is paid once a month or more often, the required period of notice is one regular pay period. Where the employee is paid less often, reasonable notice must be given. In lieu of notice, an employer may pay an employee the normal wages, exclusive of overtime, that he would have earned during the period of notice.

Notice of termination is not required where employment is interrupted by a strike or lockout, or during the first month of employment, or where the employee is hired for a fixed period or for the performance of specified work, unless by mutual agreement the work is continued after the end of the period or the completion of the work.

*In Newfoundland, The Termination of Employment Act, 1973, S.N. 1973, Act No. 19, assented to March 29, 1973, was not proclaimed in force as of December 31, 1975, thus it is not reported in this issue of Labour Standards in Canada.

The requirements of the Act regarding the period of notice do not apply where a different period is established in a collective agreement, or in a written agreement of employment between the employer and employee, if the notice period is of equal length for both parties. Further, a well-established general custom or practice in any industry respecting the period of notice may be continued, in lieu of the period of notice provided for in the act.

All employers and employees within the jurisdiction of the province are covered by the Act. Regulations may be made exempting any industry or class of persons from coverage.

Nova Scotia

Individual Notice

In Nova Scotia, the Code forbids an employer to discharge or lay off an employee who has been employed for three months or more without first giving him written notice in case of either individual or group termination.

In cases of individual termination, the notice period varies with the length of service:

less than 2 years	1 week
2 - 5 years	2 weeks
5 - 10 years	4 weeks
10 years or more . .	The employer shall not discharge the employee without just cause.

Group Notice

Notice of group termination must be given to each employee affected where 10 or more employees are to be discharged or laid off within a period of four weeks or less. The Minister of Labour must be informed in writing of any group notice. The notice period varies with the number of employees being dismissed.

10 - 99	8 weeks
100 - 299	12 weeks
300 or more . . .	16 weeks.

General Provisions

An employee employed for three months or more must also give his employer notice before quitting his job unless the employer has been guilty of a breach of the terms and conditions of employment. The notice period depends upon the length of employment:

3 months to 2 years . . . 1 week
2 years or more 2 weeks.

Where a person continues to be employed after the expiry of the notice for a period exceeding the length of notice, he must be given notice again before his employment may be terminated.

Successive periods of employment may be accumulated unless there has been a break of more than 13 weeks in employment, in which case the last period of employment is counted.

An employer must not alter wages and conditions of employment once notice is given, whether by the employer or employee, and must, upon the expiry of the notice, pay the employee all pay to which he is entitled.

Notice may be made conditional upon the happening of a future event if the required notice period is observed.

An employer may terminate an employee's employment immediately upon giving notice if he gives the employee pay in lieu of notice. This pay must be equivalent to the amount the employee would have earned at his regular rate in a normal, non-overtime workweek during the required notice period.

As already mentioned, notice is required in case of layoff. The requirement does not apply where a person is laid off for 6 consecutive days or less, or in circumstances defined by regulations. An employee who is not entitled to notice because of the duration of his layoff and whose employment is subsequently terminated (by continued layoff or otherwise) must be given pay in lieu of notice as if his employment had been terminated without notice when he was first laid off.

The requirement to give notice does not apply where the employee has been guilty of wilful misconduct or disobedience, or wilful neglect of duty that has not been condoned by the employer.

Persons employed for a definite term or task for a period of 12 months or less are not entitled to notice. However, if the person continues to be employed for three months or more after the completion of his term or task, he is to be considered a regular employee and therefore entitled to notice. His period of employment is deemed to begin at the commencement of the term or task.

In addition, persons discharged or laid off for any reason beyond the control of the employer are not entitled to notice if the employer has exercised due diligence to foresee and avoid the cause. Among these reasons are labour disputes, destruction of plant or machinery, unavailability of materials, cancellation or lack of orders, and actions of government authority.

Excluded also are persons who have been offered reasonable alternate employment by the employer or who have reached retirement age according to the established practice of the employer. Employees in the construction industry are excluded from the requirement both to receive and to give notice. Furthermore, regulations may exempt persons employed in any activity, business, work, trade, occupational profession or any part of these.

The length of notice does not include any week of vacation unless the employee agrees to take his vacation during the notice period.

Ontario

Individual Notice

In Ontario, an employer is required to give notice in writing to an employee whose employment is to be terminated, provided the employee has completed three months' service or more. The length of notice varies with the period of employment, as follows:

3 months to 2 years	1 week
2 to 5 years	2 weeks
5 to 10 years	4 weeks
10 years or more	8 weeks.

A period of employment constitutes the period between the time employment first began and the time that notice was or should have been given. Successive periods of employment may be accumulated, unless there has been a break of more than 13 weeks in employment. In such a case, the period of last employment constitutes the length of service for purposes of the notice.

Group Notice

The group notice requirement applies when an employer plans to terminate the employment of 50 or more persons within four weeks or less. The length of notice is related to the number of workers involved. The minimum written notice that must be given by the employer to the employee and to the Minister of Labour is:

50 - 199	8 weeks
200 - 499	12 weeks
500 or more . .	16 weeks.

Where not more than 10 per cent of the persons employed in an establishment are to be dismissed in a four-week period, and these total 50 or more persons, the requirement for notice in the case of individual dismissal applies, unless the termination is caused by the permanent discontinuance of all or part of the employer's business.

Persons who have been employed for less than three months are not to be counted in determining the number employed in an establishment and are not entitled to notice.

In the case of a collective dismissal, the employer is required to co-operate with the Minister during the period of notice in any action or program designed to re-establish the dismissed workers in employment.

Employees who have received notice of a collective termination of employment are required to give written notice to their employer that they intend to quit their jobs. One week's notice is obligatory for an employee who has worked for the employer for less than two years, and two weeks' notice for one who has been employed for two years or more.

General Provisions

A number of provisions are applicable to both individual and group notice.

Where notice is given, employment must continue until the notice has expired. The length of notice may not include any week of vacation, unless the person, after receiving the notice, agrees to take his vacation during the notice period. Where a person continues to be employed after the expiry of the notice for a period exceeding the length of the notice, he must again be given notice before his employment may be terminated.

Under the legislation, the employer is required to give the prescribed notice or to pay the wage or salary equivalent. The employer terminating the employment of an employee without notice must notify him in writing to this effect and pay him the equivalent of the wages he would have earned for working regular hours during the notice period. Compensation payable in lieu of notice is deemed wages for purposes of the Act.

The employer is forbidden to alter the wage rate or any other term or condition of employment of a person to whom notice has been given, and upon the expiry of the notice must pay him the wages and vacation pay to which he is entitled.

The Act covers layoffs other than "temporary layoffs", as defined. Notice of indefinite layoff is deemed to be notice of termination of employment.

A "temporary layoff" is defined as: (1) a layoff of not more than 13 weeks in any period of 20 consecutive weeks; (2) a layoff of more than 13 weeks where (a) the person continues to receive payments from the employer, (b) the employer continues to make payments for the benefit of the person laid off under a bona fide retirement or pension plan or under a bona fide group or employee insurance plan, (c) the person laid off receives supplementary unemployment benefits, or (d) he is entitled to receive supplementary unemployment benefits, but does not receive them because he is employed elsewhere during the layoff; or (3) a layoff of more than 13 weeks where the employer recalls the person within the time fixed by the Director of Employment Standards.

The notice provisions do not apply to a person who is laid off or whose employment is terminated during or as a result of a strike or lockout at his place of work or who has been employed for less than three months. Also exempted from the requirement to receive notice are: (1) a person who is laid off after (a) refusing an offer by his employer of reasonable alternate work or (b) refusing alternate work made available to him through a seniority system; (2) a person on layoff who does not return to work within a reasonable time after being requested to do so by his employer; (3) a person employed under an arrangement such that he may elect to work or not for a temporary period when requested to do so; and (4) a person who has reached the age of retirement according to the established practice of the employer.

An employer is not required to give notice to a person employed for a definite term or task. Where, however, a term or task exceeds a period of 12 months or the person continues to be employed for three months or more after completion of the term or task, the notice provisions apply.

A person who has been guilty of wilful misconduct, disobedience or wilful neglect of duty that has not been condoned by the employer is not entitled to notice, and notice is not required where a contract of employment becomes impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance.

Any notice of termination may be made conditional upon the happening of a future event.

An employee may terminate his employment forthwith upon notice if his employer has been guilty of a breach of the terms and conditions of employment.

The construction industry has been exempted from the requirement to give notice. Other employers are covered, including the Crown and its agencies. Those entitled to notice include professional employees, teachers, commercial fishermen, domestic servants, farm workers and salesmen.

The regulations take into account the bumping provisions that may be permitted by the terms of employment. Where the terms of employment authorize that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met by posting a notice containing the salient facts in a conspicuous place in the establishment.

Prince Edward Island and Saskatchewan

In Prince Edward Island and Saskatchewan an employer is forbidden to discharge or lay off an employee who has been in his service continuously for three months or more without giving him at least one week's written notice.

"Layoff" is defined in Saskatchewan as the temporary termination of an employee's service for a period of more than 6 days.

In both provinces, on termination the employee is entitled to his actual earnings during the week or his normal wages for one week, exclusive of overtime, whichever amount is greater. If notice is not given, the employee is entitled to his normal wages for one week, exclusive of overtime. In Saskatchewan, an employee must receive full pay from his employer within 14 days after the day on which his termination becomes effective. Where an employee's wages vary from week to week, in Saskatchewan, his normal weekly wage is to be obtained by averaging his earnings, exclusive of overtime, for the four-week period immediately preceding the date on which notice was given or, if no notice was given, the date of discharge or layoff.

In Saskatchewan, the employer shall within 14 days, pay to the employee, in addition to all amounts due to him, his average wage for his period of employment with the employer. However, if the employee has at any time been entitled to take an annual holiday under any act, custom or agreement, or under his contract or service, the employer shall within 14 days pay the employee, in addition to all other amounts due to him, his average wage for his period of employment between the dates on which he became entitled to the last annual holiday that he was entitled to take and the date of the termination of employment.

The Prince Edward Island Act also requires an employee with three months' service or more to give his employer at least one week's notice of his intention to terminate his employment.

The requirement to give notice applies to all employees and their employers except farm workers in both provinces and domestic servants in Prince Edward Island. Saskatchewan also excludes ranching, certain handicapped persons, market gardening and employees employed in family undertakings, and Prince Edward Island excludes construction, tourist establishments operating less than six months in a year, and students employed during the period May 1 to October 1.

In certain circumstances notice is not required; namely, discharge for just cause other than shortage of work in Saskatchewan and just cause including shortage of work in Prince Edward Island.

Québec

Individual Notice

In Québec, Section 1668 of the Civil Code requires a domestic, servant, journeyman or labourer engaged by the week, month or year to give one week's notice of termination of employment if hired by the week, two weeks' notice if by the month, and a month's notice if by the year. The employer must give similar notice where an employee's services are no longer required.

Some decrees under the Québec Collective Agreement Decrees Act also require the giving of notice of termination of employment.

Group Notice

Under section 45 of the Manpower Vocational Training and Qualification Act, an employer who, for technological or economic reasons, contemplates the dismissal of 10 or more employees within a period of two months is required to give advance notice to the Minister of Labour and Manpower. The minimum periods of notice required, varying with the number of workers to be dismissed, are:

10 to 99 . . .	2 months
100 to 299 . . .	3 months
300 and over . .	4 months

"Employee" does not include a seasonal or casual worker or a director or officer of a corporation.

The requirement to give notice does not apply to an employer in the construction industry or to an employer carrying on an undertaking of a seasonal or intermittent nature. The legislation does not apply to an establishment involved in a strike or lockout.

Layoffs are included in the term "dismissal" but the employer does not have to give notice if he lays off employees for an indefinite period of time, unless the layoff will continue for more than six months.

Where a fortuitous or unforeseeable event prevents an employer from giving notice, he must inform the Minister as soon as he is in a position to do so and furnish proof that he was unable to comply with the law. The Minister will then determine, in consultation with the employer, the period of notice that must be given.

The notice, which must be mailed by the employer to the Manpower Branch of the Department, and which becomes effective on the date of mailing, is to contain: (a) name and address of the employer or establishment; (b) nature of the principal product or service; (c) names and addresses of associations of employees (unions); (d) reasons for the collective dismissal; (e) date on which the collective dismissal will be made; and (f) full name of each employee likely to be dismissed.

The legislation also requires the employer, at the request of the Minister, to participate immediately in the establishment of a reclassification committee, whose task is to study and recommend practical measures for the re-establishment of the dismissed employees. The certified trade union or the

employees, if there is no union, must be equally represented on the committee. The employer must contribute funds to the committee to the extent agreed upon by the parties. The Manpower Branch of the Department is responsible for the establishment and functioning of such committees.

The parties may, with the Minister's consent and subject to conditions laid down by him, establish a reclassification fund. If necessary, several employers and several certified trade unions may establish a joint fund.

10. Notice of Individual Termination

Jurisdiction	Notice Required	Application
Federal	2 weeks	Employers in federal industries Exclusions: employed less than 3 months, superintendents, managers, members of professions
Alberta	3 months but less than 2 years: 7 days 2 years or more: 14 days	Employers and employees Exclusions: where there is a custom, practice or agreement providing for (a) a longer notice of termination of employment, or (b) the payment of a greater sum of money in lieu of notice of termination of employment.
Manitoba	Pay period	Employers and employees Exclusion: employed less than 2 weeks, farm workers
Newfoundland	Pay period	Employers and employees Exclusion: employed less than 1 month
Nova Scotia	Employed less than 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: The employer shall not discharge the employee without just cause.	Employers (employees different) Exclusion: employed less than 3 months, construction industry
Ontario	Employed less than 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: 8 weeks	Employers (special provisions for employees under notice of mass layoff) Exclusion: employed less than 3 months, construction

Jurisdiction	Notice Required	Application
Prince Edward Island	1 week	Employers and employees Exclusion: employed less than 3 months, farm workers, construc- tion
Québec	Hired by week: 1 week Hired by month: 2 weeks Hired by year: 1 month	Listed employees and their employers: domestics, servants, journeymen, labourers
Saskatchewan	1 week	Employers Exclusion: employed less than 3 months, farming, ranching, market gardening

11. Notice of Group Termination

Jurisdiction	Number of Employees	Notice Required
Federal	50 - 100	8 weeks
	101 - 300	12 weeks
	over 300	16 weeks
Manitoba	50 - 100	8 weeks
	101 - 300	12 weeks
	over 300	16 weeks
Nova Scotia	10 - 99	8 weeks
	100 - 299	12 weeks
	300 or more	16 weeks
Ontario	50 - 199	8 weeks
	200 - 499	12 weeks
	500 or more	16 weeks
Québec	10 - 99	2 months
	100 - 299	3 months
	300 or more	4 months

MATERNITY PROTECTION

Legislation to ensure the health and job security of women working before and after childbirth is in force in the federal jurisdiction and in British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan.

The federal maternity leave provisions are contained in the Canada Labour Code, Part III, Division V.1. British Columbia has a special law on the subject, the Maternity Protection Act. The Manitoba provisions are contained in subsection 34.1 of the Employment Standards Act. The New Brunswick provisions are sections 11-13 of the Minimum Employment Standards Act, a law which regulates various conditions of employment. Nova Scotia's maternity protection provisions are contained in sections 56 and 57 of the Labour Standards Code. The Ontario maternity protection provisions form Part XI of the Employment Standards Act, 1974. Saskatchewan's provisions are contained in Part VA of the Labour Standards Act, 1969.

The Canada Labour Code states that a woman who has been continuously employed by her employer for at least one year is entitled to 17 weeks of maternity leave. Employment is deemed continuous where a business is sold or otherwise transferred to a new employer. The employee must make application at least four weeks before her leave is to begin and she must also submit a certificate from a qualified medical practitioner specifying the estimated date of delivery.

Every employee is entitled to and shall be granted maternity leave consisting of a period not exceeding 17 weeks, if confinement occurs on or before the date specified in the certificate or the aggregate of 17 weeks plus an additional period, plus an additional period equal to the term between the date specified in the certificate and the actual date of confinement, if confinement occurs after the date specified in the certificate. The leave is to begin no earlier than 11 weeks preceding the date in the certificate and to end no later than 17 weeks following the actual date of confinement.

The postnatal leave may be shortened by mutual agreement of the employer and employee, if the woman submits a medical certificate certifying that the resumption of employment at the earlier time will not endanger her health.

Provision is also made for the above leave in special cases where a woman has not submitted an application as required by the Code. The employee must present her employer with a medical certificate specifying the probable date of delivery and certifying that during her period of leave she was incapable of performing her normal duties because of a condition arising out of her pregnancy that was not anticipated by the physician.

Job security is guaranteed by prohibiting dismissal or layoff of an employee who is entitled to maternity leave solely because she is pregnant or because she has applied for maternity leave. An employee who resumes work after leave must be reinstated in the position she occupied before her leave began or in a comparable position with not less than the same wages and benefits. Maternity leave is not to interrupt continuity of employment for purposes of calculating pension or other benefits.

In Ontario, Manitoba, Nova Scotia and Saskatchewan, an employee must have worked continuously for her employer for at least one year in order to be eligible for maternity leave benefits.

Ontario, Nova Scotia and Manitoba provide for 17 weeks of maternity leave consisting of 11 weeks' voluntary prenatal leave and six weeks' compulsory postnatal leave. British Columbia and New Brunswick provide for 12 weeks of maternity leave, six weeks before and six weeks after child-birth, with the postnatal leave being compulsory. Saskatchewan provides for 18 weeks of maternity leave, 12 weeks before and a compulsory period of six weeks after. On production of a medical certificate showing the expected date of confinement, the employee must be granted a period of leave of up to six or 12 weeks, depending on the province, preceding the specified date. In Saskatchewan, the employee may be granted the prenatal leave without application if she has bona fide medical reasons to cease work immediately and in Manitoba upon production of a medical certificate indicating the probable date of delivery and certifying that she is incapable of performing her duties because of a condition arising out of her pregnancy that was not expected by the physician. In Ontario an employee who does not give two weeks' notice to her employer but who otherwise is entitled to pregnancy leave, shall, before the expiry of two weeks after she ceased to work, provide her employer with a certificate of a legally qualified medical practitioner stating that she was not able to perform the duties of her employment due to a condition arising from her pregnancy. The Ontario, Manitoba, Nova Scotia and Saskatchewan Acts stipulate that the period of voluntary leave is to extend to the actual date of delivery.

In Ontario, Nova Scotia and Saskatchewan the employer has the right to require the employee to commence her leave at any time (in Saskatchewan up to a maximum of three months), if the duties of her position cannot reasonably be performed by a pregnant woman or if her performance is materially affected by the pregnancy. The employee must produce a doctor's certificate when required to do so by the employer.

The British Columbia and New Brunswick Acts forbid the employer to permit an employee to work during the six-week period following childbirth or during a longer period than six weeks, if recommended in a medical certificate. In Saskatchewan, a further six weeks may be granted the employee upon production of a medical certificate giving bona fide reasons why the employee is unable to return to work. The Manitoba, Nova Scotia and Ontario laws do not provide for extension of the postnatal leave on medical grounds. In Manitoba, Nova Scotia, Ontario and Saskatchewan the obligation is on both the employee and the employer to observe the six weeks' compulsory leave, unless a shorter period is agreed upon by both parties and is supplemented by the recommendation in writing by a medical practitioner.

In all six provinces, the right to maternity leave is supplemented by a guarantee that an employee will not lose her employment because of her absence on maternity leave. In Manitoba, Nova Scotia, Ontario and Saskatchewan a woman with a minimum of one year's service is protected against dismissal throughout pregnancy. In British Columbia and New Brunswick, an employer is forbidden to give notice of dismissal and to dismiss an employee for reasons arising out of absence on maternity leave during a period of 16 weeks. In Manitoba, an employer is not required to reinstate an employee when she has remained absent from work for a period of more than 10 weeks following the actual date of delivery. The maximum amount of leave to which an employee is entitled in Saskatchewan must not exceed 18 weeks.

In Nova Scotia, Ontario and Saskatchewan, the employer is required to permit the employee to resume work with no loss of seniority or accrued benefits. In Manitoba, for the purpose of calculating pension and other benefits employment after the termination of maternity leave is to be considered as continuous with employment before commencement of the leave.

In Ontario, where the employer has suspended or discontinued operations during an employee's pregnancy leave, the employer shall, upon resumption of operations, reinstate the employee to her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time her leave of absence began with no loss of seniority or benefits accrued to the commencement of her leave of absence or in the absence of such a system shall reinstate her in her position or provide alternative work at no loss of pay, seniority or accrued benefits.

Under a provision of the Alberta Labour Act, the Board of Industrial Relations has authority to regulate and prohibit the employment of women during and following pregnancy. The Board has not exercised this authority.

In Nova Scotia, certain employers may be exempted from the maternity protection provisions by regulation. In British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan the provisions apply to employers with one or more employees.

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Canadian
Publication

1976 Labour Standards in Canada



Labour
Canada

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LABOUR STANDARDS
IN CANADA

December 1976

LABOUR CANADA
Legislative Analysis

Hon. John Munro, Minister
T.M. Eberlee, Deputy Minister



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FOREWORD

This publication sets out the provisions of federal and provincial labour standards laws enacted by the end of 1976 in the areas of statutory school-leaving age, minimum age for employment, minimum wages, equal pay for equal work, hours of work, weekly rest-day, annual vacations, general holidays, termination of employment, maternity protection and severance pay.

"Standards" as used in the title means the minimum standards required by law. These standards are set out in narrative form and in tables, where appropriate.

The publication was prepared by Mr. Allan Nodwell.

J.P. Whitridge,
A/Director,
Library and Information Services,
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DIVISION OF LEGISLATIVE POWERS

Both the Parliament of Canada and the provincial legislatures have the power to enact labour laws. The jurisdiction of the provincial and federal governments arises from the British North America Act, Sections 91 and 92. Judicial interpretation of these sections gives provincial legislatures major jurisdiction, with federal authority limited to a narrow field.

Provincial authority is derived from the "property and civil rights" subsection of the B.N.A. Act. The right to enter into contracts is a civil right, and since labour laws impose certain restrictions on contracts between employers and employees, they fall within provincial authority as property and civil rights legislation. Provinces also have the right to legislate as to "local works and undertakings."

Federal jurisdiction in the labour law field arises from the right to regulate certain subjects expressly assigned to Parliament by Section 91 of the B.N.A. Act, or expressly excepted from provincial jurisdiction by Section 92. These subjects are of a national, international or interprovincial nature. In addition, Parliament has jurisdiction to regulate works wholly within a province which have been declared by Parliament to be works "for the general advantage of Canada or for the advantage of two or more of the provinces," as, for example, grain elevators, feed mills and uranium mines. By virtue of its exclusive power to regulate certain works and undertakings, Parliament has the incidental power to enact labour laws relating to those works and undertakings.

The Canada Labour Code applies to:

- (1) Works or undertakings connecting a province with another province or country, such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals and telegraph, telephone and cable systems.
- (2) All extra-provincial shipping and services connected with such shipping, e.g., longshoring and stevedoring.
- (3) Air transport, aircraft and aerodromes.
- (4) Radio and television broadcasting.
- (5) Banks.
- (6) Defined operations of specific works that have been declared to be for the general advantage of Canada or of two or more provinces, such as flour, feed and seed cleaning mills, feed warehouses, grain elevators and uranium mining and processing.

- (7) Most federal Crown corporations, e.g., the Canadian Broadcasting Corporation and the St. Lawrence Seaway Authority.

The jurisdiction of Parliament is generally limited to the above industries, with certain possible additions arising from subsequent judicial decisions.

In addition, Parliament has exclusive jurisdiction to pass laws dealing with the Yukon and Northwest Territories. Parliament has enacted legislation for local government in each territory, granting power over property and civil rights and matters of a local and private nature. Accordingly, the territorial governments have virtually the same legislative powers with regard to labour laws as do the provinces.

Labour standards legislation has been enacted by the Territorial Councils of the Yukon and Northwest Territories in most of the fields of legislation covered by this publication. Labour Standards Ordinances, modelled on the Canada Labour Code, Part III (Labour Standards), with modifications to meet the particular requirements of the Territories, went into force July 1, 1968. The Ordinances established minimum standards of hours of work, wages, annual vacations and general holidays for employees in the Territories. Previous to the enactment of the Northwest Territories Ordinance, the only labour standards applicable were those established by mines legislation. Standards in the Yukon Ordinance replaced those previously laid down in the Yukon Labour (Minimum Wages) Ordinance, the Labour Provisions Ordinance and the Annual Vacations Ordinance.

The Commissioner of each Territory is to administer the Ordinance, with the advice and assistance of an Advisory Board, consisting of a chairman, an employers' representative and an employees' representative. Provision was made for the appointment of a Labour Standards Officer to administer the Ordinance, under the Commissioner's direction, and for the appointment of inspectors.

The Ordinances apply to employers and employees in any work, undertaking or business of a local or private nature in the Territory. The Northwest Territories Ordinance excludes domestic servants in private homes, trappers, persons engaged in commercial fisheries, and managers or superintendents or persons who exercise management functions. Members or students of designated professions may be excluded by regulations. The Yukon Ordinance applies generally but certain classes of employees are excluded from Part I governing hours of work.

STATUTORY SCHOOL-LEAVING AGE

In all provinces there is a school attendance law which makes it compulsory for children between specified ages to attend school. Exceptions are permitted where a child is unable to attend because of illness or other unavoidable cause and, in most provinces, because of distance from school (where no conveyance is provided) or lack of school accommodation. Some Acts stipulate that a child may be excused from attendance before reaching the statutory school-leaving age if he has already attained a specified standing. An exception may also be granted in special cases, if it appears to be in the interest of the child that he should be excused from school attendance or where the child is certified to be under efficient instruction elsewhere.

In Manitoba, a child over 15 may be permitted to leave school on production of a certificate signed by his parent or guardian, the school attendance officer and the superintendent of schools or, if there is no superintendent, by the school inspector.

In five provinces, a child may be exempted from school attendance for a temporary period on the application of his parent or guardian, if his services are required for necessary farm or home duties or for employment. The New Brunswick Schools Act states that the Minister of Education may issue a certificate relieving a child from school attendance for a maximum period of six weeks in each school term, on the written application of the child's parent, if he agrees with the reasons for such application. In Prince Edward Island, the Minister of Education may certify in writing to the regional school board that a child should be exempted from school attendance. No such exemptions are provided for in Alberta, British Columbia and Ontario.

In both Territories, a School Ordinance provides for compulsory school attendance to the age of 15. In the Northwest Territories, if a child reaches his 15th birthday after December 31, he must attend to the end of the school year. As in the provinces, a child may be exempted from school attendance if he is under instruction in some other satisfactory manner, if he is prevented from attending school for any unavoidable cause, or if he has reached a standard of education equal to or higher than that to be attained in the school. In the Northwest Territories, a child may be allowed to leave school before the statutory school-leaving age if he has completed Grade VIII or its equivalent. An exception is also permitted in the Northwest Territories in the case of a child who is unable to attend because of distance from school or lack of school accommodation.

The employment of children of school age during school hours is forbidden unless a child is excused for any reason provided in the Acts. The school-leaving age in each province and territory and the provisions for exemption for employment are shown in the table below.

1. Statutory School-leaving Ages
and Work Exemptions

Province	School-leaving Age	Work Exemptions
Alberta	16	
British Columbia	15 -- unless course completed at nearest public school and transport to higher school not provided	
Manitoba	16 -- must attend to end of school term	Over 12, for not more than 4 weeks in a school year if services needed in husbandry or home duties Over 15, with certifi- cate signed by parent, attendance officer and superintendent of schools
New Brunswick	15 -- unless Grade 12 passed	For not more than 6 weeks in each school term if Minister agrees with reasons for parents' application
Newfoundland	15 -- must attend to end of school year	For period stated in certificate if services needed for maintenance of self or others, child under 12 for not more than 2 months in a school year except with approval of Minister

Province	School-leaving Age	Work Exemptions
Nova Scotia	16	If 12, for not more than 6 weeks in a school year if services needed for home duties or other necessary employment If 13, with employment certificate if services needed for maintenance of self or others; medical certificate may be required
Ontario	16 -- unless secondary school or equivalent completed. Must attend to end of school year	
Prince Edward Island	15	If Grade 12 completed or Minister certifies exemption from school attendance
Québec	15 -- must attend to end of school year	For not more than 6 weeks in a school year if services needed in farming, home duties or maintenance of self or relatives
Saskatchewan	16 -- unless Grade 8 or equivalent passed also where exemption permitted by super- intendent	If services needed for maintenance of self or others

Province	School-leaving Age	Work Exemptions
Northwest Territories	15 -- must attend to the end of the school year if after December 31, or unless Grade 8 or equivalent passed. Also where distance from or lack of school accommodation prevents attendance	
Yukon Territory	15 -- unless for unavoidable cause, has reached a standard equal to or higher than school's standard or being instructed in a manner and to a standard satisfactory to the Superintendent	

MINIMUM AGE FOR EMPLOYMENT

The Canada Labour Code, Part III and regulations do not set an absolute minimum age for employment, but lay down conditions under which young persons under 17 years may be employed in federal undertakings. A young person under 17 may be employed in a federal industry only if he is not required to be in attendance at school under the laws of his province; the work in which he is to be employed is not likely to injure his health or endanger his safety; and he is not employed underground in a mine or in work prohibited for young workers under the Explosives Regulations, the Atomic Energy Control Regulations or the Canada Shipping Act.

Employment for young workers under 17 is subject to two further conditions: that an employee under 17 is not required or permitted to work between 11 p.m. and 6 a.m.; and that he is paid not less than \$2.35 an hour, unless he is undergoing on-the-job training under an approved training plan.

The Canada Shipping Act fixes a minimum age of 15 for employment at sea.

In the provincial jurisdictions, a minimum age for employment is set by mines Acts and a variety of other provincial legislation (child labour laws, Child Welfare Acts, the Alberta Labour Act, the Manitoba Employment Standards Act, factory or industrial safety laws and minimum wage orders).

Four provinces -- British Columbia, Nova Scotia, Prince Edward Island and Newfoundland -- have a child labour law, prohibiting employment below a specified age. The Newfoundland Employment of Children Act, 1968, is to go into force upon proclamation.

The British Columbia Control of Employment of Children Act forbids employment of a child under 15 in specified industries or occupations, unless a permit is obtained from the Minister of Labour. The Act applies to manufacturing, shipbuilding, electrical works, logging, construction, catering, public places of amusement, the mercantile industry, shoeshine stands, automobile service stations, road transport and the laundry, cleaning and dyeing industry.

Under the Nova Scotia Labour Standards Code, sections 65-67, employment of a child under 16 is forbidden in industrial undertakings (including mines, quarries and construction), the forest industry, garages and service stations, hotels and restaurants, operating elevators, theatres, dance halls, shooting galleries, bowling alleys and billiard and pool rooms, and in any employment prohibited by regulations. Subject to any Act or regulations, this restriction does not apply to an employer who employs members of his family. The employment of children under 14 is prohibited in work unwholesome or harmful to health or normal development, or which

prejudices attendance at school or the child's capacity to benefit from instruction; for more than eight hours in a day; for more than three hours in a school day (except with an employment certificate); on any day for a period that, when added to school hours, totals more than eight; at night between 10 p.m. and 6 a.m.; or any employment prohibited by regulation. The Nova Scotia Construction Safety Act sets a minimum age of 16 years for employment in construction.

The Prince Edward Island law (the Minimum Age of Employment Act) sets a minimum age of 15 years for employment in mining, manufacturing, shipbuilding, electrical works, construction, transport by road, rail or inland waterway, undertakings involving the conversion, canning or packaging of any farm or sea products and the printing and publishing of newspapers, books and magazines.

The Newfoundland Act, which has not been proclaimed, prohibits the employment of children under the age of 16. There is provision in the Act, however, for the making of regulations by the Lieutenant-Governor-in-Council permitting the employment of children under 16 in any specified occupation, subject to such conditions as may be prescribed.

The Act lays down the conditions under which a child under 16 may not be employed. He may not be employed to do any work that is or may be harmful to his health or normal development or that may prejudice his attendance at school or his capacity to benefit from school instruction. He may not work more than eight hours in a day or more than three hours on a school day. Time spent at school and at work may not total more than eight hours. Work between the hours of 10 p.m. and 7 a.m. is prohibited. Further, he may not be employed during a strike or lockout. Children under the age of 14 may not be employed in any occupation specified by regulation.

Two other provinces -- Alberta and Manitoba -- have fixed a minimum age for most employment in their labour codes.

In Alberta, a person under 15 may not be employed in any employment except with the written consent of the parent or guardian and the approval of the Board of Industrial Relations. As the school-leaving age is 16 and no exemptions are allowed for employment, children under 16 may work only when school is not in session. However, a person under the age of 15 may be employed if they have been excused from school attendance under the School Act for the purpose of securing vocational training through employment; or if they are enrolled in a work experience program approved by the Minister of Education and the Board of Industrial Relations.

A regulation under the Alberta Labour Act contains several provisions governing the employment of persons under 18 years. Children over 12 and under 15 may be employed: as deliverers of small wares for a retail store; clerks in a retail store; clerks or messengers in an office; or deliverers of newspapers, flyers or

handbills if the employment is not likely to be injurious to the life, health, education or morals of the person. The parents of a person under 15 shall file with the employer written consent for the employment of the person. Employment of such person is limited to two hours in a day on which he or she is required to attend school; or eight hours on non-school days. Employment of a person under 15 is prohibited between 9 p.m. and 6 a.m. Further, persons over 15 and under 18 are forbidden to work between 9 p.m. and 12:01 a.m. on the premises of a retail business selling food or beverages (whether alcoholic or not) or any other commodities, goods, wares or merchandise, or petroleum or natural gas products, or any establishment, including a hotel or motel, where the owner is required to hold a visitor's accommodation business license, unless the young person works with and is in the continuous presence of at least one other person 18 years of age or over.

No young person shall work in the above-mentioned premises between the hours of 12:01 a.m. and 6 a.m. A young person between the ages of 15 and 18 years may work in other premises not specified above if the parent or guardian has given written consent and if the young person works with and is in the continuous presence of at least one other person 18 years of age or over.

In Manitoba, a child under 16 may not be employed in a factory. For any other employment, the minimum age is 16, unless a written permit is obtained from the Minister of Labour.

Five provinces have Child Welfare Acts which limit the employment of children in various ways. Under the Newfoundland Act, no child under 16 may be employed: (1) between 10 p.m. and 7 a.m. except in employment in which members of the employer's family are employed under his or her supervision; or (2) in any occupation prohibited by an order of the Lieutenant-Governor-in-council. Employers are forbidden to employ an unmarried girl under 16 in a restaurant, tavern or hotel without the written consent of her parents or guardian. Neither may a child under 16 be employed for remuneration when he is required to be at school by the provisions of the School Attendance Act, 1962. In Alberta, the Child Welfare Commission may grant licences for employment of a child over 12 in any entertainment under certain conditions. It must be satisfied that there is no danger to the child's life, limbs, health, education or morals and that provision is made for his health and kind treatment. Where a person employs a child to perform for profit in public without a licence or contrary to the provisions of a licence he is guilty of an offence. Under the Manitoba Child Welfare Act a municipal council may pass by-laws for regulating, controlling and licensing children employed as messengers, newspaper vendors, shoe shiners, pin boys or juvenile entertainers. No child may work for a fee in any of these occupations without a licence. No licence shall be issued to any female child or any male child under 12. Nor shall any child over 12 but under 14 be granted a licence without the authorization of his parents or guardian. No child may work at the

occupation for which he is licensed during school hours nor (unless he is a juvenile performer) after specified hours in the evening, depending on the season. No person may habitually employ a child between the hours of 9 p.m. and 6 a.m. nor may he employ a child in any occupation likely to be injurious to his life, limbs, health, education or morals. Severe fines and penalties are imposed for abuses of children against the provisions of the Act.

The Saskatchewan Welfare Act provides that a child who is employed between 10 p.m. and 6 a.m. of the following day may be apprehended by a welfare officer or peace officer and taken to a place of safety. A person who (a) causes a child to be in a public place for the purpose of begging, etc., under the pretence of performing; or (b) causes a child under 13 to be employed between 10 p.m. and 6 a.m.; or (c) causes a child to be in a circus or place of public amusement to perform for profit is guilty of an offence and liable to a fine or imprisonment or both. A licence may be issued by the mayor or other authority to permit a child to take part in public entertainment under suitable conditions.

In the other provinces, a minimum age for a wide field of employment is established in factory or industrial safety laws and, in Saskatchewan, a minimum wage order.

In New Brunswick, the Industrial Safety Act prohibits the employment of a child under 16 years of age in any place of employment without a written authorization from the Minister.

In Ontario, the minimum age for employment in an industrial establishment is 15 years. "Industrial establishment" is defined as being an office, factory or shop. A child of 14 may be employed in a shop, office or office building, restaurant, bowling alley, pool room or billiard parlour if the work is not likely to endanger his safety. The Child Welfare Act provides that girls under 16 and boys under 12 must not engage in or be licensed or permitted to engage in any street-trade or occupation. Boys between 12 and 16 must not engage in such trade between 9 p.m. and 6 a.m.

The Ontario Construction Safety Act fixes a minimum age of 16 years but permits the employment of 15-year-olds in such parts of a construction project as may be designated by the regulations. No provision has been made in the regulations to date for the employment of 15-year-olds. A minimum age of 16 has been established for the logging industry.

As the school-leaving age in Ontario is 16 years and no exemptions are now permitted for employment, the above-mentioned minimum ages which are below the age of 16 apply only to such time as school is not in session. No child under 16 may be employed in any employment during school hours.

In Québec, the minimum age for employment in an industrial or commercial establishment is 16 years. The same minimum age applies to employment in hotels, restaurants, theatres and other places of amusement and to the employment by a department store or telegraph company of boys or girls as messengers. Children of 15 years of age may be employed in any of these workplaces during school vacations, but only with a permit from the inspector.

Boys and girls under 16 are forbidden to sell papers or carry on any street trade unless they can read and write fluently, and such work may not be carried on after 8 p.m.

In Saskatchewan, no person under 16 may work in a factory (which term includes dry cleaning establishments and laundries, garages and service stations, and coal, potash and sodium sulphate mines) or in a hotel, restaurant, educational institution, hospital or nursing home. Regulations may be made prohibiting the employment of young persons under 18 in factories where the work is deemed dangerous or unwholesome. Unless a permit is obtained from an inspector, the hours of work for young persons under 18 are limited to 48 in a week and night work is forbidden.

Mines Acts in all provinces but Prince Edward Island (which has no mining operations) fix the minimum age for employment in mines. Females are forbidden to work in mines in the Northwest Territories, Nova Scotia, Ontario, Québec, Saskatchewan and the federal jurisdiction.

The minimum age for employment in mines, factories, shops, hotels and restaurants is set out in the table below. In most provinces, as indicated above, the legislation (apart from mines Acts) covers certain other classes of establishments in addition to those set out in the table.

Under a Mining Safety Ordinance in each Territory, the minimum age for employment underground or at the working face of any open-cut workings, pit or quarry is 18 years. The minimum age for employment in or about a mine is 16 years in the Northwest Territories.

Under the Labour Standards Ordinance of the Yukon, regulations may be made laying down conditions under which young persons under the age of 17 years may be employed. In the Northwest Territories, a person under the age of 17 may be employed in any occupation except in such occupations and subject to such conditions as are prescribed by regulation.

2. Minimum Age for Employment

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Alberta	17	15 except with permit ¹	15 except with permit ¹ ₂	15 except with permit ¹
British Columbia	18 below ground ³	15 except with permit	15 except with permit	15 except with permit
Manitoba	16 above 18 below	16	16 except with permit	16 except with permit
New Brunswick	Coal: 16 Metal: 16 above 18 below	16 except with permit	16 except with permit	16 except with permit
*Newfoundland	16 above ⁴ 18 below	16 ⁴	16 ⁴	16 ⁴
Nova Scotia	Coal: 18 below Metal: 16 above 18 below	16 ⁴	14	16 ⁴
Ontario	16 above 18 below	15 ¹	14 ^{1,5}	14 ^{1,5} (restaurants only)
Prince Edward Island	15	15	--	--
Québec	15 above 18 below	16 ^{6,7}	16 ⁶	16 ^{6,7}
Saskatchewan	16 above 18 below	16	--	16

*Act not yet proclaimed in force.

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Yukon Territory	18 below	17 ⁶	17 ⁶	17 ⁶
Northwest Territories	16 above 18 below	-- ⁸	-- ⁸	-- ⁸

¹A child under 16 may not be employed during school hours.

²Minimum age of 12 years in certain occupations, including work as clerk, delivery boy or delivery girl in retail store, with written consent of parent and subject to restrictions on hours (2 hours in a school day, 8 hours on any other day) if not injurious to life, health, education or morals.

³A boy who has reached the age of 17 may be employed underground for the purpose of training.

⁴Except in family undertakings.

⁵A child of 14 may be employed if the work is not likely to endanger his safety.

⁶The Government may exempt establishments from the Act.

⁷For certain dangerous occupations, the minimum age is 18 for boys; for others, it is 16 for boys and 18 for girls.

⁸A person under the age of 17 may be employed in any occupation except in such occupations and subject to such conditions as are prescribed by regulation.

MINIMUM WAGES

Minimum wage laws are in force in the federal jurisdiction, all ten Canadian provinces and the two Territories.

The Canada Labour Code (Part III, Division II) sets a minimum rate for employees 17 years of age and over in the federal industries. This rate may be increased from time to time by order of the Governor-in-Council. The rate for persons under 17 is established by regulation.

Employees who are paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to be paid the equivalent of the minimum wage.

An employer who is providing on-the-job training to increase the skill or proficiency of his employees, in accordance with conditions prescribed by the regulations, may be exempted from paying the minimum wage to such employees during the whole or part of the training period.

The Code provides also for the payment of a wage lower than the minimum rate to handicapped employees under a system of individual permits.

In Alberta, Manitoba, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan, minimum wage legislation is part of each province's labour code -- the Alberta Labour Act, Part III, Division II; the Manitoba Employment Standards Act, Part II; the Nova Scotia Labour Standards Code, sections 48-54; the Ontario Employment Standards Act, 1974, Part V; the Prince Edward Island Labour Act, Part II, section 51; the Saskatchewan Labour Standards Act, Part III. The other provinces have individual minimum wage laws.

In most provinces, minimum wage boards or other labour boards are authorized by law to recommend minimum rates of wages or to establish such rates with the approval of the Lieutenant-Governor-in-Council. In Ontario minimum rates are established by the Lieutenant-Governor-in-Council. In Alberta and British Columbia they are set by the Boards of Industrial Relations. The rates are then imposed by minimum wage orders or, in Ontario and Manitoba, by regulations under the provincial Employment Standards Act.

Except in two provinces, the Acts do not specify how the minimum wage is to be determined. In Manitoba, the board is directed to take into consideration and be guided by "the cost to an employee of purchasing the necessities of life and health." The Québec Minimum Wage Commission is directed to consider "competition from outside countries or from the other provinces and the economic conditions peculiar to the various regions of the province."

The practice is to fix a general basic wage, taking into account the cost of living, economic conditions and other relevant factors. The minimum wage rate is set mainly for the protection of the unorganized and unskilled worker. It constitutes a floor above which trade unions may negotiate with management for a higher standard. The boards hold public hearings and make extensive inquiries before minimum wage orders are put into effect. Minimum wage orders are reviewed fairly frequently.

The boards are composed of members who represent the interests of employers and employees and in some cases the general public, with an impartial chairman, frequently an officer of the Department of Labour. In British Columbia at least one member of the board must be a woman, and in Nova Scotia and Saskatchewan there must be two women on the board.

In most provinces, minimum wage orders now cover practically all employment. Domestic service in private homes is excluded in all provinces except Prince Edward Island. In Newfoundland, an employer may not pay less than \$30 per week for domestic service. Farm labour is also excluded in all provinces except Newfoundland. In Ontario and Nova Scotia this exclusion is limited to farming proper, certain farm-related occupations being covered. Fruit, vegetable and tobacco harvesters are covered by the minimum wage in Ontario. Persons in Manitoba who are employed in selling horticultural or market garden products grown by another person are covered. In Saskatchewan, minimum wage rates apply to egg hatcheries, greenhouses, nurseries and brush clearing operations, and in Alberta and Prince Edward Island to farm workers employed in commercial undertakings.

A few other classes of workers are excluded in most jurisdictions. Typical exclusions are supervisory and managerial employees, certain categories of employed students, registered apprentices, certain categories of salesmen, and members and students of professions.

Minimum wage orders apply to both men and women.

In all provinces general orders are issued setting hourly rates that apply to most workers throughout the province. In five provinces, these general orders are supplemented by special orders, applying to a particular industry, occupation or class of workers and in some cases taking into account a special skill.

British Columbia, which originally had a separate minimum wage order for each industry or occupation, has been consolidating its orders. Two special orders still remain; the minimum rates set by these orders are the same as the rate set in the general order.

Québec has four industry orders, governing public works, the retail food trade, sawmills and forest operations. Formerly there were eight special orders.

The other provinces set only a few special rates. Nova Scotia has established rates for employees in beauty parlors and province-wide rates for logging and forest operations and for road building and heavy construction. Special rates for construction, mining and primary transportation and for logging, forest and sawmill operations have been set in New Brunswick. A weekly rate has been set in Alberta for commercial agents and salesmen. Special rates contained within the general regulation in Ontario apply to the construction and ambulance service industries.

In the Northwest Territories, Labour Standards Regulations were issued under the Labour Standards Ordinance. The Ordinance requires the payment of a minimum rate of wages to employees who are 17 years of age and over.

Where employees are paid on a basis other than time, or on a combined basis of time and some other basis, they are required to receive the equivalent of the minimum wage.

In two provinces the orders provide that inexperienced workers may be employed during a specified period at a rate below the regular minimum. These rates may be applicable generally or to a particular occupation.

Provision is also made in the legislation of almost all jurisdictions for the employment of handicapped workers at rates below the established minimum, usually under a system of individual permits.

In all jurisdictions except New Brunswick, Newfoundland, Ontario, Saskatchewan and the Yukon Territory, the orders set special minimum rates for young workers. Student rates are set in two provinces.

In addition to setting minimum wage rates, minimum wage legislation usually contains other related provisions intended to protect the worker. The most prevalent of these provisions are described below.

Tipping is dealt with specifically in the Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Québec and federal legislation. These provisions make it clear that gratuities are not to be counted as part of wages. In New Brunswick the Minimum Wage Act established that money paid as a tip or gratuity, or as a surcharge or other charge in lieu of a tip or gratuity is the property of the employee to whom or for whom it is given and shall not be withheld by the employer. Québec orders state

that tips are the exclusive property of the employee, and the employer is not allowed to deduct them or to consider them as part of the wages paid, even with the employee's consent. Boards in other provinces take the position that gratuities are not to be regarded as wages.

Québec regulations state that employees who work in hotel trade establishments and who usually receive tips are entitled to the minimum hourly rate less 35 cents.

There are provisions in the orders of most provinces and the Territories (and also in the federal Labour Code) relating to the charges or deductions for board and lodging, where furnished by the employer to the employee.

In some jurisdictions (federal, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island, Québec, the Northwest Territories and the Yukon), the orders set limits on the amounts by which such charges may reduce the minimum wage. The Ontario orders fix the maximum amounts at which meals or a room or both may be valued for minimum wage purposes, where board and lodging are provided as part of wages. In the other provinces, the orders set the maximum charges or deductions that may be made.

The Northwest Territories stipulates that an employee's wages must not be reduced below the minimum wage for meals supplied; the furnishing and upkeep of uniforms; or for accidental breakages.

Maximum charges or deductions are not set in British Columbia orders. If the board finds that services are inadequate or charges are excessive, it may specify the maximum charges that may be made.

Requirements are also laid down in some minimum wage orders regarding the provision and maintenance of uniforms, where these are required to be worn.

Most general orders contain a "daily guarantee" or "call-in-pay" provision requiring that an employee who is called to work be paid for a certain number of hours, even if he is not put to work or if he works for a shorter period. This two-, three-, or four-hour minimum period, as the case may be, must be paid for at the minimum rate, except in British Columbia, where payment is required at the employee's regular rate of pay.

Under a Northwest Territories Regulation, an employee who is required to report for work must be paid a minimum of four hours' pay at his regular rate.

3. General Minimum Wage Rates for
Experienced Adult Workers
(Legislated as of December 31, 1976)

Jurisdiction	Rate	Effective Date
Federal	\$2.90	April 1, 1976
Alberta	\$2.75	March 1, 1976
British Columbia	\$3.00	June 1, 1976
Manitoba	\$2.95	September 1, 1976
New Brunswick	\$2.55 \$2.80	June 1, 1976 November 1, 1976
Newfoundland	\$2.50	January 1, 1976
Nova Scotia	\$2.50 \$2.75	January 1, 1976 January 1, 1977
Ontario	\$2.65	March 15, 1976
Prince Edward Island	\$2.50 \$2.70	July 1, 1976 July 1, 1977
Québec ¹	\$2.87 \$3.00	July 1, 1976 January 1, 1977
Saskatchewan	\$2.80 \$3.00	January 1, 1976 January 1, 1977
Northwest Territories	\$3.00	June 7, 1976
Yukon Territory	\$3.00	April 1, 1976

¹Québec -- Employees of hotel trade establishments (e.g., hotels, restaurants, bars, camping grounds, etc.) who usually receive tips are entitled to general hourly rate less 35 cents an hour.

4. Minimum Wage Rates for
Young Workers and Students*
(Legislated as of December 31, 1976)

Jurisdiction	Rates per Hour		Effective Date
Federal	Employees under 17:	\$2.65	April 1, 1976
Alberta	Employees under 18:	\$2.60	March 1, 1976
	Students under 18 employed part-time:	\$2.25	March 1, 1976
British Columbia	Employees 17 and under:	\$2.60	June 1, 1976 ¹
Manitoba	Employees under 18:	\$2.70	September 1, 1976
Nova Scotia	Underage employees 14 to 18:	\$2.25 \$2.50	January 1, 1976 ² January 1, 1977
Ontario	Students under 18 employed for not more than 28 hours in a week or during a school holiday:	\$2.15	March 15, 1976 ³
Prince Edward Island	Employees under 18:	\$2.20 \$2.35	July 1, 1976 July 1, 1977
Québec	Employees under 18:	\$2.87 \$3.00	July 1, 1976 January 1, 1977

Jurisdiction	Rates per Hour		Effective Date
Northwest Territories	Employees under 17:	\$2.55	June 7, 1976

*New Brunswick, Newfoundland, Saskatchewan and the Yukon Territory have no special rates for young workers or students.

¹British Columbia -- Does not apply to bus operators, resident caretakers, or taxicab drivers.

²Nova Scotia -- Except with approval of Minimum Wage Board, no more than 25% of employer's total workforce may be underage employees (14-18), except where his total working force is 7 or less he may employ 2. In a hotel, restaurant, motel or tourist resort during the period June 15 - September 15, up to 60% of employees may be underage workers. These rates do not apply in beauty parlours, logging and sawmill operations or road building and heavy construction.

³Ontario -- Student rates do not apply to the ambulance or construction industries.

5. Minimum Rates and Learning Periods
for Inexperienced Workers*
(Legislated as of December 31, 1976)

Jurisdiction	Hourly Rates and Learning Periods	Effective Date
Nova Scotia	During first 3 months of employment:	
	\$2.25	January 1, 1976 ¹
	\$2.50	January 1, 1977
Ontario	During first month of employment:	
	\$2.55	March 15, 1976 ²

*No provision for lower rates for learners in federal jurisdiction, British Columbia, Manitoba, Prince Edward Island, New Brunswick, Newfoundland, Québec or Saskatchewan. In Alberta a learner's rate is set only for workers in the garment industry. In addition to the general rate for experienced workers, Nova Scotia has a learner's rate for beauty parlours.

¹Nova Scotia -- Inexperienced employees are persons with less than 3 months' experience in the work for which they are employed. Without the express approval of the Minimum Wage Board, the number of underage or inexperienced employees employed by the employer may not exceed 25% of his total working force. An employer whose total working force is seven or less may employ two inexperienced employees. However, in the case of an employer operating a motel, hotel, restaurant or tourist resort from June 15 to September 15, up to 60% of the persons employed may be underage or inexperienced employees during this period.

²Ontario -- Not more than 20% of total number of employees in an establishment may be employed as learners, and only persons who have no previous experience in the work may be paid learners' rates.

6. Maximum Charges Permitted
for Board and Lodging*
(Legislated as of December 31, 1976)

Jurisdiction	Meals		Lodging		Board and
	single	per week	per day	per week	Lodging per week
Federal	50¢		60¢		
Alberta	85¢		\$1.10		
Manitoba	50¢			\$5.00	
New Brunswick	\$1.25		\$1.25		\$3.30 per day
Newfoundland	75¢	\$12.50		\$5.50	\$18.00
Nova Scotia ¹	\$1.15	\$20.00		\$6.00	\$26.00
Ontario	\$1.15	\$24.00		\$11.00	\$35.00
Prince Edward Island	\$1.00	\$14.00		\$6.00	\$20.00
Québec ²	75¢			\$6.00	\$21.00
Saskatchewan ³	\$1.00 or \$3.00 per day		\$1.00		
Northwest Territories	65¢		80¢		
Yukon Territory	50¢		60¢		

*No maximum charges set in British Columbia.

- ¹Nova Scotia -- Logging and forest operations: board and lodging, \$4.00 per day; construction, no charges set; beauty parlour employees same as table.
- ²Québec -- Sawmill and forest operations: single meal, 65¢; board and lodging, \$1.95 per day; retail food trade, same as table.
- ³Saskatchewan -- Applies to hotels and restaurants and employees earning \$150 or less a week in educational institutions, hospitals and nursing homes only.

EQUAL PAY

The Parliament of Canada, the two territories and all provinces have enacted laws which require equal pay for equal work without discrimination on the grounds of sex.

In six jurisdictions equal pay provisions are contained in the labour code -- the Canada Labour Code, Part III, Division II.1; the Ontario Employment Standards Act, 1974, Part IX; the Saskatchewan Labour Standards Act, Part V; the Nova Scotia Labour Standards Code (sections 55-57); the Yukon Labour Standards Ordinance; and the Manitoba Employment Standards Act (Part IV). In the other jurisdictions equal pay provisions form part of human rights legislation -- the Alberta Individual's Rights Protection Act, the British Columbia Human Rights Act, the Québec Charter of Human Rights and Freedoms, the New Brunswick, Newfoundland and Prince Edward Island Human Rights Codes and the Northwest Territories Fair Practices Ordinance.

Newfoundland forbids any employer or person acting on his behalf to establish or maintain differences in wages between male and female employees, employed in the same establishment who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility, except where such payment is made pursuant to a seniority system or a merit system.

The Québec Charter of Human Rights and Freedoms states that an employer must without discrimination, grant equal salary or wages to the member of his personnel who perform equivalent work at the same place.

Prince Edward Island forbids all employers or persons acting on their behalf from discriminating between employees by paying one employee at a rate of pay less than the rate of pay paid to another employee employed by him for substantially the same work, the performance of which requires equal education, skill, experience, effort and responsibility and which is performed under similar working conditions, except where payment is made pursuant to a seniority system, merit system, or a system that measures earnings by quantity or production or performance. The seniority system and the quality or quantity systems cannot be discriminatory, however.

The Alberta Act forbids an employer to employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer (or vice versa) for similar or substantially similar work. The work is deemed to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar. Reduction of an employee's rate of pay in order to comply with the legislation is prohibited.

The federal, Ontario, Saskatchewan and Manitoba provisions also protect persons of either sex against discrimination in the payment of wage rates. These provinces, and also Nova Scotia, lay down criteria for determining whether the work performed is the same or similar.

In the federal jurisdiction, an employer is forbidden to establish or maintain differences in wages between male and female employees employed in the same industrial establishment, who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility.

In Ontario and Saskatchewan, the employer is prohibited from paying a female employee at a lesser rate of pay than that paid to a male employee (or vice versa) for the same work (similar work in Saskatchewan) performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions. Nova Scotia's provisions are identical to Ontario's except that they only apply to female employees.

In the federal, Alberta, Ontario and Saskatchewan jurisdictions the employer is forbidden to reduce the rate of pay of an employee in order to comply with the equal pay requirement. Further, in Ontario employee or employer organizations may not cause or attempt to cause an employer to pay wages that contravene the equal pay provisions of the Act.

In Manitoba an employer is forbidden to pay the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment, if the work required of, and done by, employees of each sex is the same or substantially the same. By way of clarification, the Act states that the work of male and female employees is to be deemed the same or substantially the same if the job, duties, responsibilities, or services that the employees are called upon to perform are the same or substantially the same in kind or quality and substantially equal in amount.

All the Acts, where applicable, make it clear that a difference in rates of pay based on a factor other than sex does not constitute failure to comply with their requirements. In Nova Scotia, however, the employer must establish that such a factor justifies a different rate of pay.

The Ontario and Saskatchewan Acts contain specific exceptions in addition to the general exception permitting a differential based on any factor other than sex. In both provinces, differences in rates of pay based on: a seniority system; a merit system; or in Ontario, a system that measures earnings by quantity or quality of production; do not constitute discrimination within the terms of the Act.

In Québec, a difference in salary or wages based on experience, seniority, years of service, merit, productivity or overtime is not considered discriminatory if such criteria are common to all members of the personnel.

In all provinces equal pay legislation is applicable to provincial government employees. The federal Act covers employees of Crown corporations but does not apply to other federal public servants. Rates of pay of classified public servants are set by classification, according to the type of work performed, without any distinction based on sex.

The procedure laid down for the enforcement of equal pay provisions may be invoked upon complaint by the aggrieved person in New Brunswick, Newfoundland and Prince Edward Island. Québec allows a complaint from the aggrieved person or group of persons to the "Commission des droits de la personne".

In Alberta and Nova Scotia, investigation may be initiated upon complaint by the aggrieved person or upon the initiative of the director appointed under the Act. The provisions of the Saskatchewan Act require the director, where he receives a directive from the Minister or a request from the aggrieved person, to advise the Human Rights Commission of the complaint and to request the Commission to conduct a formal inquiry into the matter.

In the federal, Ontario and Nova Scotia jurisdictions enforcement no longer depends solely on a formal complaint. The equal pay provisions are enforced through inspection by the field staff of the respective Departments of Labour.

A complaint is to be registered in Newfoundland and Prince Edward Island with the Minister of Labour (of Manpower and Industrial Relations in Newfoundland); and in British Columbia, Manitoba and Saskatchewan with a designated officer of the Department of Labour (the director). In Alberta, complaints are made to the Human Rights Commission. The Alberta and British Columbia legislation imposes a six-month time limit for making a complaint.

In all jurisdictions, except Ontario, Nova Scotia and the federal industries, the legislation provides for an initial informal investigation into a complaint, usually by an officer of the Department of Labour. In Alberta, such an investigation is made by the Human Rights Commission.

In Newfoundland, if the person designated to make the inquiry is unable to settle the matter, a board or commission of one or more persons may be appointed. The commission is called the Human Rights Commission. The Minister may, in addition, appoint a commission when he deems it desirable to have an inquiry made into any matter within the purview of the Act.

In Alberta and New Brunswick, the Human Rights Commission will refer a complaint that is not settled under the initial investigation to a Board of Inquiry (appointed by the Minister) to investigate the matter. In British Columbia and Saskatchewan, the director may refer the matter to the Human Rights Commission, a permanent body established under the Act. In Alberta and British Columbia, the Commission may dismiss a complaint at any stage of proceedings if it is of the opinion that it is without merit.

In Prince Edward Island, if the Human Rights Commission cannot effect a settlement, it must make a report to the Minister who may appoint a board of inquiry (one or more persons). If the board does not effect a settlement, it makes recommendations to the Commission, which then reports to the Minister. The Minister may then make such orders as he deems fit.

In Québec, where a complaint has been made for the Commission, the Commission attempts to effect a settlement. If this attempt is unsuccessful, the Commission may then recommend the cessation of any act, payment of indemnity, etc., and seek an injunction if the recommendation is not complied with.

The recommendations of the board, commission, committee or referee, as the case may be, may be put into effect by an order of the Minister except under the Alberta, British Columbia, Saskatchewan and Québec Acts. Under the Alberta Act, the recommendations of the board are made to the Commission. If the Commission is unable to effect a settlement on the course of action to be taken with the person against whom the finding was made, the Commission must deliver all material pertaining to the complaint to the Attorney General who may apply to the Supreme Court for an order. The Human Rights Commission must issue an order and in Saskatchewan it may issue an order if it finds that there has been a contravention of the Act.

In Newfoundland, the order of the Minister may be appealed to the Supreme Court. Under the Alberta Act, a decision of the board of inquiry may be appealed to the Supreme Court. An appeal of a decision or order made by the Saskatchewan Human Rights Commission may be made to a judge of the Court of Queen's Bench. In British Columbia, an order of the Human Rights Commission may be enforced by filing it in the Supreme Court of the province.

In British Columbia a board of inquiry may direct the person whom it has found to be in contravention of the Act to cease or rectify the contravention. It may also include in its order a direction to pay the wages lost as a result of the contravention. In Saskatchewan, where the Human Rights Commission finds that a contravention of the Act has been made it may order compliance with the provisions including the payment of compensation to the aggrieved party for previous service that was the subject of the complaint. Every person who violates the provisions of the federal Act is guilty of an offence and is liable on summary conviction to a fine,

imprisonment, or both. The employer may also be directed to pay arrears of wages to which the employee was entitled. In Alberta the judge may order compensation for the person discriminated against for all or any part of any wages or income lost or expenses incurred by reason of the discriminatory action.

In Ontario, the Director of Employment Standards (who, under the direction of the Minister of Labour, administers the Employment Standards Act) has authority to determine the amount of wages owing to an employee, where in his opinion an employer has contravened the equal pay provisions. The employer must be given a chance to be heard. For purposes of enforcement of the Act, this amount is to be deemed unpaid wages.

Where the director cannot determine the amount owing, the Minister may, on his recommendation, appoint a board of inquiry. The board is required to hear the parties and to recommend to the director the course of action that ought to be followed.

Under the wage collection procedure of the Employment Standards Act, the director is empowered to collect unpaid wages for an employee up to a maximum of \$2,000 and the employer is subject to a penalty of 10 per cent of the amount owing. An employer who has paid the wages and penalty as required has the right to apply to the Minister for a review, whereupon a person designated by the Minister is required to hold a hearing, giving the employer full opportunity to make submissions, and to decide the amount owing to the employee. If the employer is dissatisfied with the Minister's decision, he may appeal the decision to the Supreme Court on the grounds that it is erroneous in point of law or in excess of jurisdiction.

The legislation in Nova Scotia is similar to that in Ontario. Where the Director of Labour Standards finds that an employer has not paid equal wages, he may direct the employer to pay the amount due to the employee to the Labour Standards Tribunal. If he disputes the director, the employer may apply to the Tribunal for a determination of the amount. If the Tribunal finds the employer is indebted to the employee, it must order the employer immediately to pay over to the Tribunal the amount of pay found to be unpaid. The person to whom the order is directed must forthwith comply with the order.

Provision is made in all the Acts for prosecution in the courts as a last resort. Failure to comply with the Act or an order is made an offence punishable by a fine. In Newfoundland, Ontario and Saskatchewan, the convicting magistrate must order the payment of wages due, in addition to imposing a fine. Under the federal Act, an employer convicted of an offence under the Act may, in addition to any other penalty, be made liable for payment of wages found to be due.

Each of the Acts makes it an offence for an employer to dismiss or otherwise discriminate against an employee because he has made a complaint or given evidence under the Act.

A number of the laws provide that a person claiming to be aggrieved by an alleged contravention of the Act has a choice of initiating court proceedings or of making a complaint. Some Acts stipulate that the right of an employee to take any other proceeding for recovery of wages to which he is entitled is not barred by reason of any remedy provided for in the Act.

The Northwest Territories Fair Practices Ordinance, which is a Human Rights Code, provides for equal pay for equal work. The Ordinance forbids an employer to employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer for similar or substantially similar work. The work is deemed to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar. Reduction of an employee's rate of pay in order to comply with the legislation is prohibited. A difference in rates based on a factor other than sex does not constitute discrimination.

Enforcement is initiated by complaint of the aggrieved person to the officer appointed by the Commissioner of the Northwest Territories to deal with such matters. The Commissioner may then appoint an officer to inquire into the complaint. If settlement is not reached through conciliation, the officer must recommend to the Commissioner the action that should be taken with respect to the complaint. The Commissioner may issue whatever order he thinks necessary to put the recommendations into effect. A person affected by the order may appeal it within 10 days to a judge of the Territorial Court, whose decision is final.

In the Yukon Territory, sections of the Labour Standards Ordinance prohibit an employer from paying a female employee at a lesser rate of pay than that paid to a male employee or vice versa for "the same work performed under similar working conditions" except where such payment is made pursuant to a seniority system; a merit system; a system measuring earnings by quality or quantity of production; or a differential based on any factor other than sex. Reductions of an employee's pay in order to comply with this legislation is not permitted. Employers' and employees' organizations are prohibited from causing or attempting to cause an employer to pay his employees rates of pay that contravene the legislation. Where the employer has not paid the wages required, the Labour Standards Officer may determine the amount owing the employee and such amount shall be deemed to be unpaid wages. Where the officer is unable to effect a determination, the matter is referred to the Advisory Board for investigation. The board, upon review of the matter recommends what action should be taken.

HOURS OF WORK

Federal

Hours of work of employees in undertakings within the federal labour jurisdiction are regulated by the Canada Labour Code, Part III, Division I.

The Code sets a standard workday and workweek and requires payment of an overtime rate for work done beyond the hours specified. It also establishes a maximum workweek, overtime hours being restricted to eight in a week, except in special circumstances.

Under the Code, standard hours (the number of hours that may be worked at regular rates of pay) are limited to 8 in a day and 40 in a week. Hours in excess of eight and 40 may be worked, however, provided one and one-half times the regular rate is paid, up to a maximum of 48 hours in a week.

In a week in which an employee is entitled to a general holiday with pay (under Part III, Division IV of the Code) the overtime rate is to be paid after 32 hours, instead of 40. In calculating overtime for the week, no account is to be taken of any time worked on the holiday.

Because some types of employment may call for a more flexible arrangement of working hours, the Code permits the averaging of hours over a period of two or more weeks. Under a system of averaging, working hours may vary from day to day or from week to week so long as the total standard hours do not exceed 40 multiplied by the number of weeks in the averaging period. The overtime rate (one and one-half times the regular rate) must be paid at the end of the averaging period for all hours worked in excess of such standard hours. The total number of hours that may be worked by an employee in an averaging period is the product of the number of weeks in the period multiplied by 48.

Averaging is permitted for any class of employees who have no regularly scheduled working hours or who have regular hours but the number of hours scheduled differs from time to time. On notification to the Department of Labour, an employer may select an averaging period of 13 weeks or less.

If an employer requires a longer period for averaging than 13 weeks in order to provide for a period in which fluctuations take place (e.g., where there are seasonal rush and slack periods during the year), he must obtain the approval of the Minister of Labour. The same conditions apply as to a period of 13 weeks or less. The period over which hours may be averaged may be as long as a full year.

An employer who has adopted an averaging plan is required to post clear information about the plan in places where it can readily be seen by the employees affected.

When an employee terminates his employment of his own accord during an averaging period, he is paid his regular rate for his hours worked but he is not entitled to overtime pay. If this employment is terminated by the employer, however, he must be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.

Exceptions from the maximum workweek are permitted in certain circumstances. Work in excess of 48 hours in a week (or the maximum hours established in an averaging period) may be allowed under permit, when the Minister, having given due regard to the conditions of employment and the welfare of the employees, is satisfied that such exceptional conditions exist as to make the working of additional hours necessary.

A permit is issued for a definite period of no longer duration than the time the exceptional circumstances are expected to continue. The permit may specify either the total amount of excess overtime that may be worked in the period or the additional number of hours per day or per week that the employees may work. The number of employees engaged in such excess overtime and the extent of the overtime worked by each must be reported in writing to the Minister within 15 days after the overtime permit expires or within a time fixed in the permit.

Maximum weekly hours may also be exceeded to make up for the time lost due to an accident, breakdown in machinery or other emergency. The employer is required to report such emergency work within a specified time.

In order to deal with the special problems of some industries, regulations may be made, after public inquiry, varying the standard and maximum hours for classes of employees in any specified establishment where the Code provisions would be unduly prejudicial to the interests of the employees or seriously detrimental to the operation of the establishment, or entirely exempting a class of employees from the hours provisions where they cannot reasonably be applied.

Regulations may also be made specifying the circumstances under which the overtime rate will not apply because work practices make it unreasonable or inequitable. A general regulation issued under the Canada Labour Code provides for exemption from the overtime provisions in circumstances where there is an established work practice that requires or permits an employee to work in excess of standard hours for the purpose of changing shifts or permits an employee to exercise seniority rights to work in excess of standard hours pursuant to a collective agreement.

Different hours of work provisions have been established temporarily under the former deferment provisions of the Code for some industries, including shipping on the St. Lawrence River, the East Coast and Newfoundland.

Provincial

General Hours of Work Laws

Five provinces have Acts of general application regulating working hours (the British Columbia Hours of Work Act; the Alberta Labour Act, Part III, Division I; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, 1974, Part IV and the Saskatchewan Labour Standards Act, Part II).

The Acts of British Columbia, Ontario and Alberta set a maximum number of hours per day and per week beyond which an employee must not work. Hours are limited in British Columbia to eight in a day and 44 in a week and in Ontario to eight in a day and 48 in a week. Maximum hours of work in Alberta are limited to eight in a day and 44 in a six-day week. The weekly hours of work may be varied to provide for an average of 44 per week in each consecutive four-week period, provided that the total number in any one week does not exceed 48 hours.

All three laws provide for exceptions in certain circumstances. Exceptions are authorized in orders or regulations or through the issuing of a permit. In both Alberta and British Columbia, the administrative board has authority not only to permit working hours to exceed statutory limits but also to fix the minimum wage payable for overtime. In both provinces the board has made special orders for a considerable number of industries, permitting variations from the daily and weekly hours specified in the Act for exempting workers entirely from hours limitations.

In Ontario, the Director of Employment Standards may, by permit, authorize hours of work in an establishment in excess of eight and 48, subject to specific limits laid down in the Act. The limit for overtime is 12 hours in a week for an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman, or any other person who, in the opinion of the Director, is engaged in a similar occupation. For all other employees the limit for excess hours is 100 hours in each year for each employee.

The Director may also issue a permit authorizing working hours in excess of the overtime limits set out above, if he is satisfied that the nature of the work or the perishable nature of the raw material being processed requires the excess hours.

Subject to certain exceptions set out in the regulations, one and one-half times the regular rate must be paid for work done, under permit, beyond 48 hours in a week. Overtime shall be paid for work done beyond 44 hours. The employee's regular rate of pay must not be reduced in complying with this requirement.

Taxi drivers, and ambulance drivers and their helpers are not entitled to overtime pay. In certain industries -- highway transport, local cartage, road building, sewer and watermain construction, the hotel, motel, tourist resort, restaurant and tavern industry (seasonal employees) and fruit and vegetable processing (seasonal employees) -- extended hours, 50, 55 or 60, as the case may be, may be worked before the overtime rate applies.

The Manitoba and Saskatchewan Acts set standard hours as opposed to maximum hours. They do not limit the hours which may be worked in a day or in a week but require the payment of time and one-half the regular rate after eight hours in a day and 40 hours in a week. To prevent the working of excessively long hours, the Saskatchewan Act empowers the Lieutenant-Governor-in-Council to limit daily hours in any occupation to 12, except in special circumstances or when permission to work longer hours has been obtained from the Minister of Labour.

The Manitoba and Saskatchewan laws also provide for exceptions. The Manitoba law permits working hours to be varied in certain circumstances without payment of the overtime rates. The Manitoba Labour Board must review once a year any orders it makes under this authority. The Lieutenant-Governor-in-Council may, by order in council, declare that a state of public emergency exists or where a Royal Proclamation is issued under the Emergency Measures Act, and during the time that the emergency exists the provisions relating to overtime rates shall be and remain suspended. In Saskatchewan, regulations permit hours to be averaged over a specified period, thus allowing some variation from week to week. Certain classes of employees have been entirely exempted from the Act, with the result that these classes have no entitlement to overtime pay.

Under all the Acts, there is provision for working daily hours in excess of eight in order to establish a compressed workweek, so long as weekly hours are not exceeded. There is also provision, except in Saskatchewan, for hours to be exceeded in emergencies.

The standards set under hours of work laws and the application of each Act in general terms are set out in Table 7.

The Nova Scotia provisions respecting hours of work are incorporated in the Labour Code. The Minimum Wage Board is empowered, after investigation and subject to the approval of the Lieutenant-Governor-in-Council, to issue orders determining the daily or weekly hours of work for persons employed in industrial

undertakings. Currently the maximum hours per week are set at 48. The number of hours of work per day and/or per week may be varied in certain cases. The hours per day may vary provided that the total hours per week do not exceed the standard set by the Board. In addition, the hours of work may be exceeded in case of accident, urgent work, or "force majeure," but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking. The hours of work limit may also be exceeded where shift work is required.

The Territories

The Mining Safety Ordinances of both Territories provide for a maximum eight-hour day for work below ground in mines.

Under the Labour Standards Ordinance of the Northwest Territories, standard hours of work are eight in a day and 44 in a week for most employees. Except in special circumstances, maximum hours are 10 in a day and 54 in a week.

Different standards are laid down for certain classes of employees. Standard hours of 176 in four consecutive weeks have been established for persons employed in exploration and development of metal mining and petroleum (including geophysical, geological, seismological and diamond drilling work), the transport of goods to and from isolated areas, and in tourist camps. For these employees, maximum hours are 216 in the same period.

In the Yukon Territory, standard hours are eight in a day and 40 in a week. Maximum hours of work permitted are 10 in a day, 60 in a week and 260 in a month. Overtime beyond the limits of eight and 40 hours is prohibited for employees engaged in mining operations underground in a shaft or tunnel.

In all cases where an employee is required or permitted to work in excess of standard hours, he must be paid one and one-half times his regular rate.

Averaging of hours over a period of two or more weeks is permitted under both ordinances. The manner and circumstances in which averaging may be allowed are to be prescribed by regulations.

Exceptions from maximum hours are permitted in certain circumstances. Where work in an industrial establishment is seasonal or intermittent in nature, the Commissioner, after having considered the nature of the establishment, the conditions of employment and the welfare of the employees, may issue an order permitting excess hours to be worked.

In the Northwest Territories, hours in excess of maximum hours (10 and 54 or 216, as the case may be) may be worked with a permit issued by the Labour Standards Officer, when the applicant has satisfied him that there are exceptional circumstances to justify the working of additional hours.

Under both ordinances, maximum hours may be exceeded in an emergency due to an accident, breakdown in machinery or other unpreventable circumstances. Details of such emergency work must be reported (in the Yukon, only upon request).

The hours of work provisions of the Yukon Ordinance do not apply to members of the employer's family, individuals who search for minerals, travelling salesmen, domestic servants, farm labourers, and supervisory and managerial employees. Members and students of professions and other persons or classes of persons may be excluded by regulations.

Persons employed as hunting or fishing guides are exempted from the hours of work provisions of the Northwest Territories Ordinance.

Other Legislation Restricting Hours

Apart from general hours of work laws, other statutes regulate working hours in some industries.

Schedules under industrial standards legislation in seven provinces and decrees under the Quebec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act regulate hours in construction and other industries. Schedules and decrees apply to designated zones; a number apply throughout the province.

Generally speaking, standard weekly hours for the construction industry range from 40 to 48, with a 40-hour week being the usual standard in the larger centres. In Québec, a 40-hour week is set for tradesmen, a 42 1/2-hour week for labourers and a 50-hour week for road building.

In another industry regulated by schedules and decrees in Ontario and Québec, the garment industry, some standard weekly hours are 36 or 37 1/2. In most branches of the industry, standard hours have been reduced to 35.

In Manitoba, maximum hours which may be worked at regular rates are set under the Construction Industry Wages Act, which applies to both private and public construction work. At the present time an eight-hour day and a 40-hour week is in effect for most classifications of construction work in the Greater Winnipeg area, and a 44-hour week in the rest of the province. In the heavy

construction industry, the maximum hours of work payable at regular rates are 54 except in Metropolitan Winnipeg during the period from November 1 to April 30, when a 48-hour week is in effect.

Working hours of employees under 18 are restricted by the New Brunswick Minimum Employment Standards Act and by factory legislation in two other provinces. Under the New Brunswick Minimum Employment Standards Act, which is applicable to any place of employment other than a private home or federal undertaking, hours of employees under 18 years are limited to nine in a day and 48 in a week, unless special permission to work longer hours is obtained from the Minister of Labour. Québec factory law restricts hours of employees under 18 to nine in a day and 50 in a week in factories and to 54 hours in a week in commercial establishments. In Saskatchewan, women and boys under 18 employed in factories are prohibited from working more than 48 hours in a week.

In Newfoundland, the Hours of Work Act limits working hours of shop employees anywhere in the province to eight in a day and 40 in a week, unless one and one-half times the regular rate is paid.

In all provinces except Manitoba, Ontario and Saskatchewan, there is also some indirect regulation of hours by virtue of provisions in minimum wage orders requiring the payment of an overtime rate after a specified number of hours of work.

A general minimum wage order in British Columbia encompasses most special groups formerly governed by separate orders. The order covers all groups except resident caretakers.

The standard workweek under the general order is 40 in a week and eight in a day. Maximum hours are set at 44 in a week and eight in a day. Payment of time and one-half the regular rate is required after eight hours in a day and in excess of 40 in a week excluding hours worked in excess of eight in any one day. Employees working under a written permit from the Board of Industrial Relations or pursuant to an agreement confirmed by the Board with respect to hours of work must be paid time and one-half the employee's regular rate of pay for all hours worked in excess of a weekly average of 40 over the averaging period, excluding hours worked in excess of eight in any one day.

In Saskatchewan, the Minimum Wage Board has no authority to fix overtime rates. All overtime pay requirements are laid down in the Labour Standards Act and orders under it. In Manitoba, overtime pay requirements are contained in Part III of the Employment Standards Act and regulations. In Ontario, overtime pay is required under the Employment Standards Act, 1974 and regulations.

A minimum wage order of considerable significance with regard to working hours because of its wide coverage is the General Minimum Wage Order 4 in Québec. Order 4 is a blanket order applying to all employees in the province except those covered by decrees,

workers governed by special minimum wage orders, farm workers, domestic servants, and a few other minor groups. The minimum rates set by Order 4 apply to a standard workweek of 45 hours, after which an overtime rate of one and one-half times the minimum rate must be paid. A few classes of employees are excluded from these overtime provisions (e.g., fishing and harvesting industries and watchmen).

Night Work for Women

Manitoba minimum wage regulations require employers to provide women employees whose work begins or ends between midnight and 6 a.m. with adequate transportation, without cost to the employee, between the place of residence and the place of employment.

In Saskatchewan, women employees in hotels, restaurants, educational institutions, hospitals and nursing homes who are required or permitted to finish work between 12:30 a.m. and 7 a.m. must be provided by the employer with free transportation to their homes. Night work for women is prohibited in factories, except with a permit from the inspector.

7. Hours of Work

Jurisdiction	Standards Set	Application
Federal	Standard hours: 8, 40 after which 1 1/2 times the regular rate Maximum hours: 48	Federal industries Exclusions: managers, superintendents and professional employees Exceptions ¹
Alberta	Maximum hours: 8, 44 after which 1 1/2 times the regular rate	Most employees Exclusions: managerial and confidential employees, farm labour, domestic service, Crown employees and municipal policemen ¹ Exceptions ¹
British Columbia	Maximum hours: 8, 44 Overtime at 1 1/2 times the regular rate in excess of 40 in a week and 8 in a day	Exclusions: managerial and confidential employees ¹ Exceptions ¹
Manitoba	Standard hours: 8, 40 after which 1 1/2 times the regular rate	Most employees Exclusions: professional employees, farming, domestic service, fishing, construction, travelling salesmen and a few other classes of employees
New Brunswick	Maximum hours: Employees under 18 9, 48 Overtime: 1 1/2 times the regular rate after 44 hours	Most employees Exclusions: domestic service or farming Exceptions ¹

Jurisdiction	Standards Set	Application
Newfoundland	Maximum hours: Shop Employees: 8, 40 Overtime: 1 1/2 times the regular rate in excess of 40 in a week and 8 in a day for shop employees. Other employees: 1 1/2 times the regular rate after 44 hours	Most employees Exclusions: farming and domestic service
Nova Scotia	Maximum hours: 48	Most employees Exclusions: professional employees, farm labour, domestic servants, certain apprentices Exceptions ¹
Ontario	Maximum hours: 8, 48 Overtime: 1 1/2 times regular rate after 44 hours	Most employees Exclusions: supervisory and managerial employees, professional employees, farm workers, domestic servants, construction, commercial fishermen, resident janitors or caretakers, and a few other classes of employees Exceptions ¹
Prince Edward Island	Maximum hours: 48 Overtime: 1 1/2 times regular rate after 48	Most employees Exclusions: those covered by a labour- management agreement, registered apprentices, farm labourers

Jurisdiction	Standards Set	Application
Québec	Standard hours: 45 after which 1 1/2 times the regular rate is paid. (The fishing and harvesting industries and watchmen are excluded from over- time provisions)	Most employees Exclusions: employees governed by decree, those covered by special minimum wage ordinances, farm workers, domestics and a few other minor groups
Saskatchewan	Standard hours: 8, 40 after which 1 1/2 times the regular rate Special provisions are set for a 4- day week: 10, 40 after which 1 1/2 times the regular rate is paid	Most employees Exclusions: northern area of province, managerial employees, farm workers, domestic servants, certain professions, commercial travellers, logging, road construction, and a few other classes of employees ¹ Exceptions ¹
Northwest Territories	Standard hours: 8, 44 Maximum: 10, 54 Exception: mining and petroleum exploration; isolated trans- portation and tourist camps; 176 hours in 4 conse- cutive weeks, maximum 216 Overtime: 1 1/2 times the regular rate after standard hours	Most employees Exclusions: hunting or fishing guides

Jurisdiction	Standards Set	Application
Yukon Territory	Standard hours: 8, 40 Maximum: day, 10; week, 60; month, 260 Overtime: 1 1/2 times regular rate after standard hours Note: Persons employed in mines not to work in excess of standard hours	Most employees Exclusions: members of the employer's family, prospectors, travelling salesmen and a few other minor groups

¹Different standards set by regulation for some industries.

8. Overtime Rates

Jurisdiction	Overtime Rates
Federal	1 1/2 times the regular rate after 8 or 40 hours
Alberta	1 1/2 times the regular rate after 8 or 44 hours
British Columbia	1 1/2 times the regular rate after 8 or 40 hours*
Manitoba	1 1/2 times the regular rate after 8 or 40 hours
New Brunswick	1 1/2 times the minimum rate after 44 hours*
Newfoundland	1 1/2 times the regular rate after 44 hours ¹ *
Nova Scotia	1 1/2 times the minimum rate after 48 hours ² *
Ontario	1 1/2 times the regular rate after 44 hours ³
Prince Edward Island	1 1/2 times the minimum rate after 48 hours*
Québec	1 1/2 times the minimum rate after 45 hours ⁴ *
Saskatchewan	1 1/2 times the regular rate after 8 or 40 hours
Northwest Territories	1 1/2 times the regular rate after 8 or 44 hours
Yukon Territory	1 1/2 times the regular rate after 8 or 40 hours

*Set by minimum wage orders.

- ¹Newfoundland -- Not applicable to farm workers. Shop employees governed by Hours of Work Act, 1 1/2 times the regular rate after 8 or 40 hours.
- ²Nova Scotia -- Road building and heavy construction, and employees in transport industry required to be away from home base overnight, 1 1/2 times minimum rate after 96 hours in two weeks.
- ³Ontario -- Highway transport, 1 1/2 times regular rate after 60 hours; local cartage, 1 1/2 times regular rate after 55 hours; road building, 1 1/2 times regular rate after 50 or 55 hours, depending on class of work; watermain construction, 1 1/2 times regular rate after 50 hours; seasonal employees not working more than 16 weeks in a year in fruit and vegetable processing industry and in hotel, motel, tourist resort, restaurant and tavern industry (in latter case, if provided with room and board), 1 1/2 times regular rate after 55 hours.
- ⁴Québec -- Employees in fishing or fish processing, watchmen and employees engaged in fruit and vegetable picking and processing during the harvest season are not entitled to overtime pay; forest operations, 1 1/2 times the minimum rate after 48 hours; sawmills, 1 1/2 times the minimum rate after 50 hours; retail food trade, 1 1/2 times the minimum rate after 40 hours.

WEEKLY REST-DAY

The Canada Labour Code (Section 31) provides that employees must be given at least one full day of rest in the week, on Sunday, wherever possible.

Two exceptions from this general rule are provided for in the regulations. A weekly rest-day does not need to be granted where working hours are averaged over a specified period.

Where working hours in excess of 48 in a week are allowed under a permit from the Minister of Labour, the Minister may specify in the permit that a weekly rest need not be scheduled, as required by the Code, and may prescribe alternative periods of rest.

Six provinces -- Alberta, British Columbia, Manitoba, New Brunswick, Québec and Saskatchewan -- provide for a weekly rest-day but the provisions vary in scope. These provisions are applicable to most employees within each jurisdiction whereas the weekly rest-day provisions in Newfoundland, Nova Scotia and Ontario are restricted to a few groups of employees.

The Alberta Labour Act requires all employed persons except farm workers and domestic servants to be given a day of rest in each consecutive period of seven days, unless the Board of Industrial Relations orders that the hours of rest be allowed in two periods or that a longer period than 24 hours be granted. The Act enables the Board to make special provisions for days of rest in industries which ordinarily operate at least one shift on each day of the week, and permits a consecutive rest period to be granted every four weeks or in relation to some other work period which the Board considers proper. The Board has made special provision for accumulated days of rest in the highway and railway construction, geophysical exploration, land surveying, brush clearing, oil well drilling, oil well service and pipeline construction industries, for employees of rural municipalities engaged in road work, and for cooks, night watchmen, etc., in lumber camps.

The general order under the British Columbia Minimum Wage Act provides for a rest period of 32 consecutive hours weekly. This order applies to most employees. Farm labourers and domestic workers are not covered by these provisions. The order governing the resident caretakers also require a 32-hour rest period to be granted. Different arrangements may be made on application of the employer and employees concerned, if the Board of Industrial Relations approves.

In Manitoba, the Employment Standards Act provides that a weekly day of rest, if possible Sunday, must be granted to most employees. Exempted are farm workers; independent contractors; persons employed in agriculture, fishing, fur farming, dairy farming or growing of horticultural or market garden products for sale;

domestics in a private home; specified volunteer workers; beneficiaries under a rehabilitation or therapeutic project given employment; students of professions; professionals; watchmen, janitors and firemen living in the building in which they are employed; managers and supervisory employees; repair workers in emergencies; and persons employed for not more than three hours on a weekly rest-day merely for the purpose of looking after horses as part of their usual duty. The Minister of Labour is given discretion to exempt a particular undertaking from the application of weekly rest provisions for a fixed period or indefinitely. Where a plant is exempted, each employee must be given an additional holiday without pay for each weekly day of rest to which he would have been entitled except for the permit of exemption, and the holidays may be accumulated.

Under the Newfoundland Weekly Day of Rest Act, an employer is required to grant his employees a weekly rest period of at least 24 consecutive hours, wherever possible on Sunday. The requirement does not apply to employees engaged in emergency work, or to persons employed solely in senior managerial capacities, as defined by regulation. The latter group has been defined to include managers, superintendents, supervisory personnel who themselves are not supervised, and members of specified professions.

Any employer or class of employers may be exempted by regulations, subject to such conditions as may be prescribed. Currently excluded are employers operating in remote areas whose employees have given the employer written notice that they do not wish a rest period; employees engaged in catching, handling and processing herring; and certain other narrowly defined groups in the fishing, pulp and paper and mining industries.

The Minister of Manpower and Industrial Relations may grant a permit exempting an employer from compliance with the Act for a period not exceeding 30 days in case of accident, urgent and necessary work to be done to premises or equipment, abnormal pressure of work, or danger of loss of perishables. The Minister may cancel or renew a permit and there is no restriction on the number of permits or renewals that may be granted to an employer. Where a permit is issued, an employee accumulates a period of holidays equivalent to the missed rest periods, with or without pay, in conformity with the pay provisions applicable to the missed rest periods. The employer must allow the accumulated holidays to be taken within 30 days of the expiry or the renewal of a permit.

The Newfoundland Hours of Work Act, which applies to shops throughout the province, requires shop assistants to be given a day off each week in addition to Sunday, except in the weeks in which one of the eight general holidays occurs. In the weeks in which one of the five other specified holidays occurs, they must be given a day off in addition to Sunday and the holiday.

The New Brunswick Minimum Employment Standards Act requires employers to give their employees a weekly rest of at least 24 consecutive hours, to be taken if possible on Sunday. Where a weekly rest is impracticable, the Minister of Labour may permit rest periods to accumulate and to be taken later, either part at a time or all together. The only employees not covered are farm workers, domestic servants, employees required to cope with an emergency and part-time workers who are not usually employed more than five hours in a day. Certain groups of employees may be designated by the Lieutenant-Governor-in-Council as being outside the scope of the Act.

In Nova Scotia, employees in industrial undertakings (e.g., mining, manufacturing, construction) must be granted a rest period of at least 24 consecutive hours in every period of seven days, preferably to all employees simultaneously on Sunday. This provision may be exceeded in continuous processes.

In Ontario, in cities of 10,000 or more people, workers in hotels and restaurants must be allowed a weekly rest-day, Sunday if possible. Watchmen, janitors, foremen, and those employed for five hours or less in a day are exempted.

In Québec, Minimum Wage Order 4, applying generally to all industries within the scope of the Act not covered by special orders, provides for a weekly rest of at least 24 consecutive hours for the employees covered by its provisions. Farm workers, domestic servants and employees covered by decrees under the Collective Agreement Decrees Act are the only workers not within the scope of the Minimum Wage Act. The four special minimum wage orders also provide for a weekly rest of 24 consecutive hours. A regulation under the Québec Weekly Day of Rest Act, states that persons employed in hotels, restaurants or clubs, in places of at least 3,000 population, must have 24 consecutive hours of rest in a week. In the Québec district, the inspector may permit two periods of 18 hours each instead of one 24-hour period. Where there is only one cook, the 24-hour rest may be replaced by two 12-hour periods.

The Saskatchewan Labour Standards Act provides for a weekly rest of at least 24 consecutive hours, wherever possible on Sunday. Exempted are workers employed in farming, ranching or market gardening, domestic servants, firemen, managerial employees, family employees employed in family undertakings and employees who are not usually employed for more than five hours in a day. The Minister of Labour may by permit exempt an employer from compliance with the weekly rest requirement for a specific period not exceeding one year. Any class of employers or employees may be excluded by regulations of the Lieutenant-Governor-in-Council, subject to such conditions as may be prescribed.

The Labour Standards Ordinance of the Northwest Territories provides that, unless an exception is made by regulations, employees must be given at least one full day of rest in each week and that the normal day of rest must be Sunday wherever practicable. In the Yukon each employee has two full days of rest in the week and, wherever practicable, Sunday shall be one of the normal days of rest in a week.

ANNUAL VACATIONS WITH PAY

The Canada Labour Code, Part III, Division III provides for a vacation with pay of at least two weeks in respect of every year of employment. Vacation pay is 4 per cent of wages for the year in which the employee establishes his claim to a vacation.

A year of employment, under the federal law, must be continuous with one employer, and may be a 12-month period commencing with the day the employee began to work for the employer or any subsequent anniversary of that date, or it may be a calendar year or another year approved by the Minister of Labour.

All provinces have annual vacation legislation. The provisions regarding annual vacations with pay are contained in the Alberta Labour Act, Part III, Division 2, and in two orders under it (a general order and a special order for the construction industry); in the Ontario Employment Standards Act, 1974, Part VIII and regulations; in Québec Minimum Wage Order 3; in the Saskatchewan Labour Standards Act, Part I, and regulations; and in the Prince Edward Island Labour Act. British Columbia provides for annual vacations with pay and public holidays in one statute, the Annual and General Holidays Act. Manitoba, New Brunswick and Newfoundland have separate annual vacations laws. The Nova Scotia Labour Standards Code contains the vacation with pay provisions. Vacation with pay provisions are also contained in most decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act. Some industrial standards schedules make provision for pay in lieu of annual vacations.

Labour Standards Ordinances cover annual vacations for the two territories, consisting of at least two weeks per completed year of employment.

The Canada Labour Code applies to industries within federal jurisdiction and the only employees excluded are those who are managers or superintendents or who exercise management functions, and members of the medical, dental, architectural, engineering and legal professions.

The provincial and territorial laws govern employees in employment within the jurisdiction of the province, with the exception of the classes of employees noted below. The Newfoundland Act provides for the exemption of employees or classes of employees by order of the Lieutenant-Governor-in-Council. No regulations have yet been made.

Farm workers are excluded in all jurisdictions except Newfoundland and the Northwest Territories. In addition, British Columbia excludes persons employed in horticulture, and Manitoba and Saskatchewan, those employed in ranching and market gardening. (In

Alberta, Ontario, Prince Edward Island and Nova Scotia, workers in certain occupations related to farming are covered. Similarly in Saskatchewan, the Act applies to egg hatcheries, green houses and nurseries and bush clearing operations, and in Manitoba to landscape gardening and growing flowers, plants, ornamental shrubs and trees). Domestic servants are exempted in all provinces except Newfoundland, Prince Edward Island and Saskatchewan. Certain provisions of the Saskatchewan Act do not apply to employees employed in an undertaking in which only members of the employer's family are employed. Certain categories of employed students are excluded in Ontario and Québec. Also excepted are workers employed in commercial fishing in Nova Scotia, Ontario and the Northwest Territories.

Professional workers are excluded in British Columbia, Nova Scotia and Ontario. Salesmen paid entirely by commission and other special categories of salesmen, such as real estate and insurance agents are outside the scope of the Alberta and Nova Scotia vacation provisions. These same two provinces exclude real estate salesmen. Part-time workers employed 24 hours or less in a week are not covered in New Brunswick or Prince Edward Island; and those employed for eight hours or less in a week are exempted from the Alberta order. Nova Scotia also specifically excludes teachers.

The large group of workers governed by collective agreement decrees are outside the scope of the Québec vacation order. Workers governed by a collective agreement in British Columbia are exempted from the Act if the Minister of Labour approves the vacation provisions of the agreement.

The length of the vacation period and the vacation pay requirements in the various jurisdictions are shown in Table 9.

In Saskatchewan, an employee is entitled to three weeks annual vacation after one year of employment. Effective July 1, 1976 an employee with 12 years of service became entitled to a four-week vacation. During the following two years the length of the qualifying service would diminish by one year; thus after July 1, 1978, the entitlement to a four-week vacation would be earned after 10 years and each subsequent year of employment.

As indicated in the table, Alberta and Manitoba require the payment of regular pay for the vacation period. Regular pay means the pay the employee would have earned for his normal hours of work during the vacation period and includes the cash value of board and lodging, where provided.

In the other jurisdictions, vacation pay is a percentage of the employee's earnings for the period during which he establishes his right to a vacation. The Acts vary in what is included as earnings.

In Québec, if a worker has not completed a year's service for the same employer, he is entitled to a continuous vacation of one day for each working month. Similarly, in Saskatchewan, regulations provide that, in order to make the vacation entitlement date of his employees uniform, an employer may grant to an employee with less than a year's service a continuous vacation of one day for each month of employment. The Board of Industrial Relations in Alberta may, in making a vacation pay order, require an employer to give an employee who has not completed a year of employment a vacation in proportion to the time worked.

Most of the laws specify the working time constituting a year of employment. In British Columbia and New Brunswick, a year's service consists of not less than 225 working days (in New Brunswick, working days or shifts). In Manitoba, an employee is held to have completed a year's service if he has worked not less than 95 per cent of the regular working hours during a continuous 12-month period. In Alberta, Newfoundland, Nova Scotia and Prince Edward Island, the employee must have worked 90 per cent or more of the working time during the year (of the regular working days in the establishment in Alberta and of regular working hours in Newfoundland, Nova Scotia and Prince Edward Island). In the territories a "year of employment" is defined as continuous employment of an employee by one employer for a period of 12 consecutive months beginning with the date employment began or any subsequent anniversary date.

Where an employee has worked less than the prescribed working time for a year's continuous service and continues to work for the same employer, he is entitled to a vacation on a pro rata basis in Alberta, and to accrued vacation pay for the period worked during the year in British Columbia, Manitoba, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island, Northwest Territories and the Yukon Territory. The vacation pay is payable in New Brunswick and Prince Edward Island not later than the next regular pay period after the end of the vacation pay year; in Manitoba, on the anniversary date of the workman's employment; in Newfoundland, within a week after the anniversary date; and in the other two provinces, within a month after the anniversary date.

The employer may determine the time when each of his employees may take the annual vacation to which he is entitled, within certain limits laid down by law. The vacation must be given in New Brunswick not later than four months after June 30; in Manitoba and Saskatchewan within 10 months, and in the federal jurisdiction, British Columbia, Newfoundland, Nova Scotia, Ontario and Prince Edward Island not later than 10 months after the date on which the employee becomes entitled to a vacation; in Québec within 12 months, and in Alberta not later than 12 months after the date of entitlement. In the Yukon and Northwest Territories, the vacation must be granted not later than 10 months after the date on which the employee becomes entitled to it. Vacation pay must be given at least one day before the vacation is to begin or at an earlier date, if the regulations so prescribe.

Nine jurisdictions require an employer to give notice to the employee of when his vacation is to begin. The minimum period of notice required is one week in Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island; two weeks in the federal jurisdiction and Saskatchewan; 15 days in Manitoba; and 16 days in Québec. Under the Canada Labour Code, and in Manitoba, Newfoundland and Saskatchewan, another period of notice may be substituted by agreement. In Alberta, the employer must give the employee one week's notice, if agreement cannot be reached regarding the date on which the vacation is to commence.

An employer in a federal undertaking is required to pay his employees their vacation pay during the 14 days before the beginning of the vacation, except in cases where it is impracticable to do so and the custom of the establishment is to pay vacation pay on the regular payday during or immediately following an employee's vacation. Most of the provincial laws require vacation pay to be paid at least one day before the vacation begins. The Québec order simply states that vacation pay is to be paid before the employee's departure on vacation. In Saskatchewan, an employer must pay an employee his pay during the 14 days immediately preceding the beginning of the vacation.

The Canada Labour Code and several of the provincial laws stipulate that an employee's annual vacation is to be extended by one day in lieu of a general holiday that occurs during the vacation. (In Manitoba, Newfoundland and Saskatchewan, a general holiday is defined as a day for which he is entitled to be paid wages without being present at work.) The federal and Saskatchewan laws provide further that for the extra day the employee is to be paid the wages to which he is entitled for the holiday.

The Yukon Ordinance provides that, if a general holiday occurs during an employee's vacation, the vacation is to be extended by one day in lieu of the holiday, and that the employee must be paid the wages to which he is entitled for the holiday, in addition to his vacation pay. The Northwest Territories Ordinance states that, where a general holiday occurs during an employee's vacation, the vacation is not to be extended, and no additional holiday or wages must be given to the employee.

Under the Canada Labour Code and all the provincial laws, workers are entitled to vacation pay on termination of employment during the working year. In most jurisdictions vacation pay must be paid immediately on termination of employment. In Ontario and Newfoundland, vacation pay is payable on termination or within one week; in Nova Scotia, within 10 days; in New Brunswick and Prince Edward Island, by the next regular payday following termination of employment and in Saskatchewan within 14 days of termination. In Newfoundland, if the employee is not entitled to an annual vacation he shall receive his pay within two pay periods or one month of his vacation whichever is earlier.

In Alberta, employers in the construction industry must give each employee (except office staff) vacation credits at the end of each regular pay period. The vacation credits (4 per cent of the employee's regular earnings) are to be recorded in the employer's payroll. The employee must be given the amount of money equivalent to his accrued vacation credits on December 31 or on termination of employment. If he is entitled to an annual vacation, he must be paid his vacation pay the day before his vacation commences.

In both Territories when employment is terminated during a year, the employee is entitled to any vacation pay owing to him in respect of a previous completed year of employment and to 4 per cent of his wages for the period he has worked during the year. An employee is not entitled to vacation pay, however, unless he has been continuously employed for 30 days or more.

When a business changes hands, an employee is considered to have been in continuous employment before and after the transfer.

The Yukon Ordinance excludes from its annual vacation provisions employees who are members of the employer's family.

Manitoba and the Northwest Territories provide for three weeks after five years' service. In Manitoba, an employee must work at least 50 per cent of the regular working hours in each of four years in the preceding 10 years to be entitled to three weeks for each year of service subsequent to the fourth year. After five years of employment with any one employer, be it five years continuous or five years accumulated with the past 10 years, an employee in the Northwest Territories is entitled to three weeks annual vacation.

9. Annual Vacation and Vacation Pay

Jurisdiction	Length of Annual Vacation	Vacation Pay
Federal	2 weeks	4% of annual earnings
Alberta	2 weeks	regular pay
British Columbia	2 weeks	4% of annual earnings
Manitoba	2 weeks; 3 weeks after 5 years' service	regular pay
New Brunswick	2 weeks	4% of annual earnings
Newfoundland	2 weeks	4% of annual earnings
Nova Scotia	2 weeks	4% of annual earnings
Ontario	2 weeks	4% of annual earnings
Prince Edward Island	2 weeks	4% of annual earnings
Québec	2 weeks	4% of annual earnings
Saskatchewan*	3 weeks; 4 weeks after 12 years	3/52 of annual earnings 4/52 of annual earnings
Northwest Territories	2 weeks 3 weeks	4% of annual earnings 6% of annual earnings
Yukon Territory	2 weeks	4% of annual earnings

*Three weeks after one year's employment. Staged reduction to result in 4 weeks after 10 years as of July, 1978.

GENERAL HOLIDAYS

The federal jurisdiction, seven provinces -- Saskatchewan, Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia and Ontario -- and the two territories, have legislation of broad application dealing with paid general holidays.

Federal

Under the Canada Labour Code, Part III, Division IV, eight general holidays in a year are to be observed as paid holidays -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Code provides also that, under certain conditions, an alternative holiday may be substituted for any of the eight holidays specified.

Should a holiday occur on a day on which an employee does not normally work, he must be granted a day off with pay in lieu of the holiday, either at a time convenient to him and his employer or by the addition of a day to his annual vacation.

If Christmas, New Year's Day, Dominion Day or Remembrance Day fall on a Saturday or Sunday, that is a non-working day for an employee, he must be given a holiday with pay on the working day immediately before or after the general holiday. These provisions regarding alternative days off do not apply, however, to employees covered by a collective agreement that entitles them to at least eight paid holidays a year.

The Code lays down the general principle that an employee in a federal undertaking who does not work on a holiday is entitled to his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of the wages he would have earned at his regular rate for his normal working day. The regular rate of wages for an employee whose hours of work vary from day to day or who is paid other than on an hourly or daily basis is the average of his daily earnings, exclusive of overtime, for the days he worked during the four weeks immediately preceding the holiday, or an amount calculated by the method established by the collective agreement.

An employee in a federal undertaking who is required to work on a general holiday is entitled to his regular wages for the day and in addition, to time and one-half his regular rate for all time worked. In effect, he is paid two and one-half times his usual rate.

These holiday provisions do not apply to superintendents, managerial employees or members of designated professions.

Different provisions apply to employees employed in continuous operations who are required to work on a holiday. A "continuous operation" is defined to include any industrial establishment in which in each seven-day period operations normally continue without cessation until the end of the regularly scheduled operations for that period; the operation of trains, planes, ships, trucks and other vehicles; telephone, radio, television, telegraph or other communication or broadcasting services; or any other operation normally carried on without regard to Sundays or holidays.

An employee who works on a holiday must be paid his regular wages for the day and must, in addition, be paid time and one-half his regular rate for the time worked, or he must be granted a holiday with pay at some other time, either a day added to his annual vacation or another day convenient to him and his employer or, where a collective agreement so provides be paid for the holiday on his next non-working day.

There are some situations in which an employee is not entitled to holiday pay. An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment with an employer, but if he is required to work on a holiday he must be paid time and one-half his regular rate. If he is employed in a continuous operation, he may be paid at his regular rate for work done on a holiday.

A further exception is that an employee is not entitled to pay for a general holiday on which he does not work if he is not entitled to wages for at least 15 days during the 30 calendar days immediately preceding the holiday. An employee in a continuous operation is not entitled to pay for a general holiday if he did not report for work in response to a call from the employer, or if he makes himself unavailable for work in accordance with the conditions of employment prevailing in the establishment in which he works.

A general regulation provides that a longshoreman employed by an employer who is a member of a "multi-employer unit" is entitled to holiday pay if he is entitled to wages for at least 15 days or 120 hours in the 30 calendar days immediately preceding a general holiday. Pay for the holiday may not be less than eight times the employee's basic hourly wage rate.

A longshoreman employed by an employer who is not a member of a "multi-employer unit" must be paid, on each payday in lieu of general holidays, an amount equal to 3 per cent of his basic wage rate multiplied by the number of hours he has worked for the employer in the pay period.

An employee who is required to work on a general holiday is to be paid at not less than one and one-half times his basic rate of wages for the time worked by him on that day.

Alberta

In Alberta, a general holiday order requires employers to give their employees eight paid holidays a year - New Years's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Crown in right of Alberta and its employees, domestic servants in private homes, farm labourers (other than those in commercial undertakings), municipal policemen and various categories of salesmen are excluded from entitlement to public holidays.

The rule is that if one of the eight general holidays falls on a regular working day for the employee and he does not work on that day, he is entitled to his regular wages for the day.

If the employee is paid by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, the employee must receive the equivalent of his average daily earnings, exclusive of overtime, for his term of employment or for the two months he worked immediately preceding the week in which the holiday occurred.

Where an employee is required to work on a general holiday, he must be paid his regular pay for the day and, in addition, time and a half his normal wages for the time worked. Alternatively, he must be given a holiday with pay at some other time not later than his next annual vacation or on termination of employment, whichever occurs first.

An employee is not entitled to a holiday with pay if he has not worked for his employer for at least 30 days in the preceding 12 months; or if he does not work on the holiday when he has been required or scheduled to do so; or if he is absent without the employer's consent on either of the working days immediately preceding or following the holiday. If such an employee works on a general holiday, he must be paid at least his normal wages for all time worked.

If an employee is not required to work on a general holiday, he must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid his normal wages for the day, in addition to all other wages due him.

Construction workers in Alberta, with the exception of office staff, must be given holiday pay in a lump sum in lieu of being given a holiday with pay on each of eight general holidays.

An employer in the construction industry is required to pay each of his employees a sum equal to 3.2 per cent of his ordinary pay for the period of his employment or the period since he was last paid such sum. Pay in lieu of holidays must be given on December 31 of each year or on termination of employment.

British Columbia

In British Columbia, an order made under the Annual and General Holidays Act provides for nine paid general holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, British Columbia Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. Another day may be substituted for any of the listed holidays.

The order does not apply to employees covered by a collective agreement under the Labour Relations Act. Also excluded are: farm workers; horticultural workers; domestic servants; professional employees and trainees; and employees exempted by regulation from the Minimum Wage Act (e.g., supervisory, managerial and confidential employees, and caretakers).

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay at some other time not later than his next annual vacation, or the day on which he is required to be paid vacation pay where he has not earned an annual vacation, or on termination of employment, whichever occurs first.

An employee who is not required to work on a general holiday that would otherwise be a working day must be paid his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis he must receive the equivalent of a normal day's pay.

Where an employee's working hours vary from day to day, or where his wages are not calculated on a time basis, his pay for a general holiday is to be deemed to be the average of his daily earnings, exclusive of overtime, for the days he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid at his regular rate for all hours worked, in addition to all other wages due him.

The general rule is that, where an employee is required to work on a holiday, he must be paid not less than time and one-half his regular rate of pay for all hours worked and, in addition, must be given a holiday with pay at some other time not later than his

next annual vacation or the day on which he is required to be paid his accrued vacation pay, or on termination of employment, whichever occurs first.

Where an employee employed in a "continuous operation" is required to work on a holiday, he must, in addition to his regular rate of pay for the day, either be paid not less than time and one-half his regular rate for all hours worked or be given a holiday with pay at some other time. A "continuous operation" is defined as an operation or service normally carried on without regard to Sundays or public holidays.

For purposes of these provisions, an employee's "regular rate" is to be deemed to be the average of his hourly earnings, exclusive of overtime, for the hours he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment. An employee is also excluded from holiday benefits if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

Where certain employees of an employer are bound by a collective agreement, and other employees of the same employer are entitled to the general holidays provided for in the order, the employer may, with the approval of the Board of Industrial Relations, substitute a holiday specified in the agreement for a general holiday under the order, so that all his employees will be entitled to a holiday on the same day.

Manitoba

In Manitoba, the Employment Standards Act provides for seven paid general holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. Under certain conditions, another day may be substituted for any of the holidays named in the Act. A special Act deals with the observance of Remembrance Day.

The holiday provisions do not apply to independent contractors; persons employed in agriculture, fishing, fur farming, dairy farming or growing horticultural or market garden products for sale; domestics in private homes; volunteers working in a religious, philanthropic, political or patriotic institution; beneficiaries under a rehabilitation or therapeutic project who are given employment; or students and practitioners of professions governed by statute.

An employee who does not work on a holiday that falls on a regular working day is entitled to be paid at least the equivalent of the wages he would have earned on that day. When an employee's wages vary from day to day, his holiday pay must be at least equivalent to his average daily earnings, exclusive of overtime, for the days he worked during the 30 calendar days preceding the holiday. The holiday pay must be paid whether or not the employee is on the employer's payroll at the time of the general holiday, unless the employee has voluntarily terminated his employment before that day.

Should a holiday occur on a day that is a non-working day for the employee, he must be granted a day off with pay in lieu of the holiday not later than at the time of his next annual vacation or at a time convenient to him and his employer.

If New Year's Day, Dominion Day or Christmas Day falls on a Saturday or Sunday that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately preceding or following the holiday.

An employer must not require an employee who has not worked on the holiday to work on another day in the holiday week that would otherwise be his day of rest, unless he is paid one and one-half times his regular rate for the work done on that day.

An employee who is required to and does work on a general holiday is entitled to his regular pay for the day and, in addition, to one and one-half times his regular rate for the work done on that day.

An employee is not entitled to holiday pay in the following situations: if he has not earned wages on at least 15 days during the 30 calendar days immediately preceding the holiday; if he did not report for work in response to a call from the employer on the day of the general holiday, except where he is dismissed or laid off by his employer or ill; or if he is absent without the employer's consent on the regular working day immediately preceding or following the holiday, unless absent because of established illness. However, an employee who is not entitled to holiday pay for any of the above reasons must be paid at the overtime rate if he works on the holiday.

Employees in the construction industry are entitled to a lump sum in lieu of paid holidays. Each employee must be paid 4 per cent of his total gross wages, exclusive of overtime, for the calendar year. This amount must be paid by December 31 or on termination of employment. Where an employee in the construction industry is required to work on a holiday, he must be paid at one and one-half times his regular rate for the time worked, in addition to the lump sum.

Special provisions are also applicable to employees in a continuously operating plant, seasonal industry (except construction), place of amusement, gasoline service station, hospital, hotel or restaurant, or in domestic service other than in private homes. For these employees, equivalent compensatory time off may be substituted for overtime pay for holidays worked. The time off must be granted within 30 days and the employee must be given at least two days' notice of his day off. At the request of the employee, he and his employer may agree to a later date.

A special act in Manitoba deals with the observance of Remembrance Day. Work must not be performed on the holiday except in farming, in certain listed essential services, in continuously operating plants, or in emergency circumstances on permit from the Minister of Labour.

An employee who is required to work on Remembrance Day must be paid at least his regular rate of wages and must be granted a day off with pay within 30 days before or after the holiday. In lieu of being given a day off, an employee must be paid twice his regular rate for the time worked. Where an employee is called in to work, he must be paid for the time worked or for not less than half the normal working hours of a regular working day, whichever is greater.

New Brunswick

In New Brunswick, provisions have been made for six paid general holidays under the Minimum Employment Standards Act -- New Year's Day, Dominion Day, Labour Day, Good Friday, Christmas Day and New Brunswick Day (first Monday in August).

The holiday provisions do not apply to employees who have worked less than 90 days in the previous 12 months; who have not worked for all or part of at least 15 days during the 30 calendar days immediately preceding the holiday; who fail to work on the scheduled work day immediately preceding or following the holiday; who after agreement, without reasonable cause, fail to report for and perform the work; or who work under an agreement whereby they elect to work when requested to do so.

The employer shall give the holiday and pay to the employee his regular wages for each public holiday. Upon mutual arrangement, another day may be substituted, not later than the next annual vacation, for a public holiday. When a holiday falls upon a non-working day, or in an employee's vacation, an employer shall pay the employee his regular wages or designate another working day. Work on a public holiday is compensated at one and one-half times the regular rate and is not taken into consideration in calculating overtime. If an employee ceases his employment before a substituted day is taken, the employer shall pay to him the wages for that day. Where wages vary from day to day, the pay for a public holiday shall

not be less than the average daily wage earned over the preceding 30 calendar days. A payment of 3 per cent of gross pay is equivalent to the public holiday benefits.

Where an employee is employed in a hotel, motel, tourist resort, restaurant, tavern or any continuous operation, and the employee, because of the nature of the operation, is required to and works on a public holiday, the employer shall pay the employee one and one-half times his regular rate or pay him his regular rate and substitute another working day for the public holiday.

Nova Scotia

The Nova Scotia Labour Code provides for five paid general holidays -- New Year's Day, Good Friday, Dominion Day, Labour Day and Christmas Day. Under certain conditions, another day may be substituted for any of these holidays.

The holiday provisions do not apply to domestic servants in private homes, professional practitioners and trainees, various categories of salesmen, employees covered by a collective agreement, fishermen, fish packing employees, certain workers in the petro-chemical industry, and persons working in specific areas of primary farming.

An employee is entitled to a holiday with pay for each general holiday falling within any period of his employment.

If the employee is hired by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, he must receive the equivalent of the wages he would have earned at the regular rate of wages for his normal working day.

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately following the general holiday, or on the day immediately following his annual vacation or on a day agreed upon by the employee and his employer.

Where an employee is required to work on a holiday he must be paid at a rate equal to one and a half times his regular rate of wages for the time worked by him on that day. Where an employee employed in a "continuous operation" is required to work on a holiday, he must be paid as described above or he may be granted a holiday with pay on the working day immediately following his annual vacation, or on another day agreed upon by the employee and the employer.

An employee is not entitled to a holiday with pay if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday; or if he is absent on either of the working days immediately preceding or following the holiday. (This provision is not applicable if the employer has directed him not to report on either day.) An employee in a continuous operation is not entitled to be paid for a general holiday on which he did not report for work after having been called upon to work on that day.

Ontario

The Ontario Employment Standards Act, 1974, provides for seven public holidays. The holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. An employer shall give to an employee a holiday on and pay to the employee his regular wages for each public holiday.

The holiday provision does not apply to an employee who is employed for less than three months; has not earned wages on at least 12 days during the four weeks immediately preceding a public holiday; fails to work his scheduled regular day of work preceding or following a public holiday; has agreed to work on a public holiday and who, without reasonable cause, fails to report and perform the work; or is employed under an arrangement whereby the employee may elect to work or not when requested to do so.

This provision likewise does not apply to an employee of a telephone company owning or operating a telephone system, switchboard or exchange serving fewer than 300 subscribers; managers and supervisors; hunting or fishing guides; employees in landscape gardening, mushroom growing, flower growing for retail or wholesale or the growing, transporting and laying of sod; homeworkers; students employed as supervisors or instructors of children or at a children's camp; a student directly employed in a recreational program operated by a charitable organization; resident superintendent, janitor or caretaker; commissioned salesmen (excluding route salesmen); primary farm labourers; or funeral directors or embalmers.

Where a public holiday falls upon a working day for an employee, an employer may with the agreement of the employee or his agent substitute another working day for the public holiday not later than the employee's next annual vacation.

When the holiday falls on an employee's non-working day or in his vacation, the employer may pay the employee his regular rate of pay for that day or substitute a working day not later than the employee's next annual vacation in lieu thereof.

Where an employee works on a public holiday, he is entitled to not less than time and one-half for each hour worked plus his regular wages for that day. Work on a public holiday is not taken into consideration for calculating overtime in that week.

Where an employee works in a hotel, motel, tourist resort, restaurant, tavern, continuous operation or a hospital and the employee is required to work and works on a public holiday, the employer shall pay the employee in accordance with the above, or pay the employee the regular rate for each hour worked and give to the employee a holiday on his first working day following his next annual vacation or on a working day agreed upon and pay his regular wages for that day.

If employment ceases before a substituted day is taken, the employer shall pay to the employee his regular wages for that day.

An employee working as a fruit, vegetable or tobacco harvester and who has been employed by his employer for a period of 13 weeks or more shall be entitled to a public holiday, except Victoria Day and Dominion Day in the year 1976.

Saskatchewan

In Saskatchewan, a minimum wage order requires employees who do not work on any of nine public holidays to be paid their regular pay. For workers in the construction industry and in logging and lumbering, the order provides for payment of a lump sum in lieu of pay for the nine listed holidays. The nine holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day and Saskatchewan Day (first Monday in August).

When Christmas or New Year's Day falls on Sunday, the following Monday is to be observed as a holiday. When the Monday following Remembrance Day is declared a holiday, it is to be observed as a holiday under the order. By agreement between an employer and a trade-union representing a majority of the employees in an appropriate bargaining unit, another working day may be substituted for any of the nine listed holidays. Where workers are not represented by a trade-union, the Minister of Labour may by order permit a similar substitution, if he is satisfied that the employer and a majority of the employees are in favour of the change.

The order applies to all employees except managerial employees, employees employed in a family employee undertaking, employees in farming, ranching and market gardening (other than in egg hatcheries, greenhouses, nurseries, and brush clearing operations), and handicapped workers in sheltered workshops.

If required to work on a holiday, employees in almost all workplaces must receive, in addition to their regular pay for the holiday, time and one-half the regular rate for every hour or part of an hour worked; in effect, two and one-half times their regular pay.

A major exception to the above rule is that workers in hotels, restaurants, hospitals, nursing homes and educational institutions who are required to work on a holiday must be paid, in addition to their regular pay, time and one-half the regular rate. In addition to being paid their regular pay, full-time employees may be given time off equivalent to the hours worked on the holiday at regular rates plus one-half within four weeks.

Persons engaged in the operation of a well-drilling rig are required to be paid at their regular rate of wages, plus their normal pay for the day, for work performed on a holiday.

The order provides that, where an employee's wages, exclusive of overtime, vary from day to day, pay for a public holiday is to be calculated on the basis of his average daily wage, exclusive of overtime for the four immediately preceding days that bear the same name as the day on which the holiday occurs.

Workers in construction and in logging and lumbering who do not work on any of the nine specified holidays must be given holiday pay in a lump sum in an amount equal to 3.5 per cent of their gross wages for the calendar year, exclusive of overtime. Payment must be made on December 31 or on termination of employment, whichever occurs first. Where a majority of the employees in an appropriate bargaining unit are represented by a trade-union, the union and the employer may, by agreement in writing, elect that the workers be paid regular wages for each holiday, instead of a lump sum payment.

Construction workers who work on the holiday must be paid, in addition to the lump sum payment, wages at the rate of time and one-half their regular rate for all time worked. The latter amount must be paid in the pay period in which it is earned.

Workers in the logging and lumbering industries who work on a public holiday must be paid regular pay for all time worked, in addition to the lump sum payment to which they are entitled.

The Territories

In both territories, employees are entitled to a holiday with pay in respect of each of the general holidays listed in the ordinance. Both ordinances provide for nine general holidays. In the Yukon Ordinance, Discovery Day, is provided for. The first Monday in August is provided for in the Northwest Territories. Another holiday may be substituted for any of the listed holidays.

The Yukon Ordinance states that, where a general holiday falls on a Sunday, the Monday following is to be a holiday with pay.

The Labour Standards Officer may allow another holiday with pay to be substituted for a general holiday if another holiday is specified in a collective agreement or, where there is no collective agreement, if an employer applies for a substitution and the majority of the employees agree.

In the Northwest Territories, an employee is entitled to a holiday with pay only when a general holiday falls on a regular working day.

In the Northwest Territories, if an employee is required to work on a holiday, he must be paid at one and one-half times his regular pay for the day or he must be given a holiday with pay at a time convenient to him and his employer, not later than his next annual vacation or on termination of employment, whichever occurs first.

The Yukon Ordinance follows the Canada Labour Code, Part III (Labour Standards), in requiring, for work done on a holiday, payment of regular pay plus wages at the rate of time and one-half for the hours worked. This provision does not apply to custodial work or essential services as prescribed by regulations. A person employed in any such employment must be granted a holiday with pay at another time in lieu of a holiday on which he was required to work.

In the Northwest Territories, an employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a non-working day, unless he is paid at least double his regular rate of wages, and in the Yukon Territory at least one and one half times his regular rate of wages for the time worked by him on that day.

The circumstances under which payment of holiday pay is not required differ in the ordinances.

In the Yukon, an employee is not entitled to pay in respect of a holiday on which he does not work (a) if the holiday occurs in his first 30 days of employment with an employer, or (b) if he is not entitled to wages for at least 15 days in the 30 calendar days immediately preceding the holiday, or (c) if he has not worked an average of 24 hours a week during the four-week period immediately preceding the week in which the holiday falls (excluding any period of annual vacation), or (d) if he did not report for work on the holiday after having been called to work, or (e) if, without his employer's consent, he did not report for work on either the day preceding or the day following the holiday.

Under the Northwest Territories Ordinance, an employee is not entitled to be paid for a holiday if he has not worked for his employer for at least 30 days in the preceding 12 months. Other exceptions are the same as in (d) and (e) above.

OTHER LEGISLATION DEALING WITH HOLIDAYS

Provisions in the minimum wage order of Manitoba deal with the question of pay for public holidays to the extent of prohibiting deductions from the minimum wage for time not worked on a holiday.

Workers are protected against a reduction in the minimum wage for time not worked on a general holiday (as listed above) which falls on a regular working day. Where an employee does not work on a holiday but does work the regularly scheduled hours on the days immediately preceding and following the holiday and on all the other working days in the week, he is to be deemed, for the purpose of determining the minimum amount of wages to be paid to him for that week, to have worked regular hours on the holiday. An employee does not lose the benefits of this provision through being absent on either the day before or the day after the holiday because of established illness or with the employer's consent.

Under the Municipal Act of British Columbia, shops in all municipalities must be closed on Christmas Day and the day immediately following, New Year's Day, Good Friday, Dominion Day, Victoria Day, Labour Day, Remembrance Day, the Queen's Birthday, Thanksgiving Day and any day designated as a provincial or municipal holiday. There is also legislation in Newfoundland requiring shops to be closed on 13 specified public holidays and on one additional holiday fixed by the municipality.

Under the New Brunswick Closing of Retail Establishments Act no retail establishments shall be open to the general public for the purpose of carrying on business on New Year's Day, Good Friday, Dominion Day, Sovereign's Birthday, Victoria Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day, Easter Monday, New Brunswick Day, or any day appointed by provincial statute or proclaimed by the Governor General or the Lieutenant-Governor as a general holiday within the province.

The Québec Commercial Establishments Business Hours Act requires shops to remain closed on New Year's Day, Easter Monday, St. Jean Baptiste Day or the day following if June 24 is a Sunday, Dominion Day or the day following if July 1 is a Sunday, Labour Day, Thanksgiving Day, Christmas Day or any other day fixed by proclamation of the Lieutenant-Governor-in-Council. Shops must not open before 1 p.m. on Boxing Day or on January 2.

Provisions prohibiting work on specified public holidays except with a permit, stipulating that certain holidays must be observed as paid holidays, or requiring the payment of an overtime rate for work done on specified holiday are regular features of the decrees under the Québec Construction Industry Labour Relations Act and Collective Agreement Decrees Act and of industrial standards schedules in Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan. These provisions, while regulating a considerable portion of industry, particularly in Québec, apply only to certain trades and areas in the provinces concerned. They are not dealt with in this publication.

TERMINATION OF EMPLOYMENT AND SEVERANCE PAY

The federal jurisdiction and eight provinces -- Alberta, Manitoba, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan -- have legislation requiring an employer to give notice to the individual worker whose employment is to be terminated. Five of these provinces place an equal obligation on the employee to give notice to his employer before quitting his job.

In addition, the Parliament of Canada, Manitoba, Newfoundland, Nova Scotia, Ontario and Québec require an employer to give advance notice of a projected termination of employment or layoff of a group of employees.

The Canada Labour Code also provides for severance pay for employees with five years' service or more. No other jurisdiction has severance pay provisions.

In seven jurisdictions the legislation is part of the Labour Code: the Canada Labour Code, Part III, Divisions V.2, V.3 and V.4; the Alberta Labour Act 1973, Part III; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, 1974, Part XII; the Nova Scotia Labour Standards Code, sections 68-74; the Prince Edward Island Labour Act, Part II; and the Saskatchewan Labour Standards Act, Part IV. Newfoundland has separate laws, the Employment (Notice of Termination) Act, the Termination of Employment Act, 1973. The provisions in Québec governing individual notice are contained in the Civil Code; notice of group termination requirements are laid down in Section 45 of the Manpower Vocational Training and Qualification Act and a general regulation made under it.

Federal

Individual Notice

Employees who have been continuously employed for three months or more are entitled to two weeks' notice of termination of employment or layoff. Regulations define circumstances in which notice is not required for layoff. In lieu of notice, the employer may pay an amount equivalent to two weeks wages at the employee's regular rate for his regular hours of work.

The requirement to give notice does not apply to superintendents, managers or members of listed professions, or where an employee is dismissed for just cause.

Where an employee continues to be employed for more than two weeks after the termination date specified in the notice, his employment must not be terminated, except with his written consent, unless notice is given again.

The Code takes into account the bumping provisions that may be contained in collective agreements. Where a collective agreement authorizes that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met either by giving at least two weeks' notice to the union and the employee and posting a copy of the notice in a conspicuous place in the establishment, or by giving pay in lieu of notice to the employee whose employment is actually terminated.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee. During the notice period the employee must be paid his regular wages for his regular hours of work.

Group Notice

The Code also requires that the employer give notice of group dismissals where the employment of 50 or more persons is to be terminated simultaneously or within a four-week period. Regulations may be made providing for advance notice where a lesser number of employees is being dismissed.

For purposes of group dismissals, layoff is equivalent to termination, except in circumstances determined by regulations.

The length of notice period varies according to the number of employees being dismissed:

50 - 100	8 weeks
101 - 300	12 weeks
over 300	16 weeks.

Superintendents and managerial employees are to be included in calculating the number of employees being dismissed. Regulations exclude employees from the group notice provisions when they are employed on a seasonal or irregular basis or under an arrangement whereby the employee may choose to work or not when requested to do so.

Advance notice must be given in writing to the Minister of Labour, with copies to the Department of Manpower and Immigration and the trade-union. Where there is no union, notice must be given to the employees being dismissed, either in writing or by posting a notice in the establishment.

The notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment is to be terminated. The regulations require that the notice also include the name of the employer and any trade-union acting as bargaining agent, the location at which termination is to

take place, the nature of the industry, and the reason for termination. In addition, the employer and trade-union must provide the Manpower and Immigration Department with whatever information it requests in order to assist the employees. Both are required to co-operate with that Department in order to facilitate the re-employment of the dismissed employees.

The requirement to give group notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employees or the operation of the establishment.

A Canada Labour Standards regulation defines industrial establishment for the purposes of group notice as all branches of an employer's business located in a regional division established under the Unemployment Insurance Act. Schedules outline what constitutes an industrial establishment for the CNR, CPR, Air Canada and CP Air.

Severance Pay

The Canada Labour Code requires an employer to give an employee who has completed five years of continuous employment severance pay upon termination of employment by the employer. The severance pay must be equivalent to two days' wages at his regular rate of wages for his regular hours of work for each completed year of employment that is within the term of his continuous employment by the employer, up to a maximum of 40 days' wages.

The employer is exempt from the severance pay provisions if, either before or immediately upon termination, the employee is entitled to a pension under a pension plan contributed to by the employer and registered in accordance with the Pension Benefits Standards Act. By the same token, the severance pay provisions do not apply if the employee is similarly entitled to a pension under the Old Age Security Act, or to a retirement pension under the Canada Pension Plan or the Québec Pension Plan.

General Provisions

The Canada Labour Code Standards Regulations define circumstances under which layoff is not considered termination of employment for purposes of individual and group notice and severance pay.

Notice is not required where the layoff is the result of a strike or lockout, is for a term of three months or less, or is made pursuant to the provision of a collective agreement that has the effect of regulating the size of the workforce.

In certain circumstances, a layoff of more than three months also does not constitute termination where the employer notifies the employee that he will be recalled on a fixed date or within a fixed period of up to six months and the employee is actually so recalled; or where, during layoff, the employee continues to receive payments from the employer in amounts mutually agreed upon, the employer continues to make payments to a pension plan, or the employee receives supplementary employment benefits or is entitled to do so.

Continuity for the purposes of group and individual termination, severance pay and maternity leave is not to be broken where an employee is absent from work because of a layoff that does not constitute termination or where the absence is permitted or condoned by the employer.

Alberta

Individual Notice

The Board of Industrial Relations has established, by order, requirements for notice of individual termination. The minimum requirements are:

3 months but less
than 2 years . . . 7 days

2 years or more . . 14 days.

The Board may also make orders requiring payment in lieu of notice of termination; specifying where notice of termination is not required; exempting any class of employers or employees from the application of termination orders; prescribing how notice of termination is to be given and its form and content; and defining "termination" and "period" of employment.

These requirements do not apply to an employer and his employees where there is a custom, practice or agreement providing for a longer notice or upon payment of a greater sum of money in lieu of notice of termination of employment.

Neither these provisions nor any order of the Board affect the right of an employee at common law to be paid, or the duty imposed upon an employer to provide longer notice or a greater sum of money in lieu of termination of employment than that specified in an order of the Board.

Manitoba

Individual Notice

In Manitoba, an employer or employee in any work or occupation, except farming, must give notice of termination of employment and, except in the case of a person paid less frequently than once a month, the period of notice required is one regular pay period. If the employees are paid less often than once a month, reasonable notice must be given. Notice of termination is not required if an employee is hired for a fixed period unless the employment is, by mutual agreement, continued after the end of the period. Notice is also not required if the employment of an individual is terminated due to violent or improper conduct.

The requirements for giving notice do not apply if a general custom or practice prevails in an industry which is contrary to the terms of the Act or where different conditions concerning notice are established by collective agreement. If employment is terminated during an employee's first two weeks in a job, notice is not required unless the employer and employee have agreed in writing that the requirements of the Act will apply.

An employer is permitted to establish a practice whereby employment may be terminated with a shorter period of notice than that provided for in the Act, and the practice is considered to have been established one month after he has notified each of his employees in writing of the practice and has posted a notice setting out the terms of the practice. Each new employee must be informed of the practice by written notice at the time employment begins.

Complaints of failure to give the required notice may be made in writing to the Minister of Labour within a period of 90 days after employment is terminated. The Minister may himself inquire into it or may refer it to the board for investigation. A procedure is laid down in the Act for the settlement of such complaints.

Group Notice

Manitoba requires that advance notice of group dismissals where 50 or more employees are to be dismissed within a period of four weeks be given in writing to the Minister of Labour. Copies must be sent to the certified or recognized union. Where there is no union, the notice must be given to the employees being dismissed either in writing or by posting a notice in the establishment. The written notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment will be terminated. Regulations may require that the notice include additional information. In addition, there must be cooperation with the Minister to re-establish the employment of the dismissed employees.

The notice period varies with the number of employees to be dismissed:

50 - 100	8 weeks
101 - 300	12 weeks
over 300	16 weeks.

Notice for group termination does not apply when the employees are employed for a definite term or task of 12 months or less; laid off according to regulations*, or after refusing reasonable alternate work offered by the employer or by a seniority system; laid off and do not return to work within a reasonable time after being requested to do so by their employer; on strike or locked out; employed in the construction industry; guilty of wilful misconduct, disobedience or neglect of duty; employed under contract that is or has become impossible to perform or is frustrated by a fortuitous or unforeseeable event; employed under an arrangement whereby they may elect to work or not to work for a temporary period; or at the age of retirement according to the established practice of the employer. The Minister may, by order, make exemptions from the provisions of the Act dealing with group termination if the application of the provisions is unduly prejudicial to the interests of the employees or employer or if it would be seriously detrimental to the industrial establishment.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee or if there is a collective agreement in force which authorizes changes or variations.

The employer may terminate the employment of an employee without notice if he notifies the employee in writing to this effect and pays him the equivalent of the wages he would have earned for working regular hours during the notice period as well as any unpaid vacation pay to which the employee is entitled.

Any employee who wishes to terminate his employment prior to the expiration of the period of notice must give written notice of such action to his employer.

*A layoff is not considered a termination of employment where (1) the industry is seasonal in nature; or (2) the employee is laid off for a reasonable period, then recalled; or (3) in a non-seasonal industry, the layoff is of reasonable length, the employee is told the date on which he is to be recalled, and he is recalled on or before that date.

The employer and the trade union representing the employees affected by the termination must co-operate with the Minister in any action or program aimed at facilitating the re-establishment in employment of the employees involved.

The requirement to give notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employer, employees or the operation of the establishment.

Newfoundland

In Newfoundland, both the employer and the employee are required to give notice of termination of employment. Where an employee is paid once a month or more often, the required period of notice is one regular pay period. Where the employee is paid less often, reasonable notice must be given. In lieu of notice, an employer may pay an employee the normal wages, exclusive of overtime, that he would have earned during the period of notice.

Notice of termination is not required where employment is interrupted by a strike or lockout, or during the first month of employment, or where the employee is hired for a fixed period or for the performance of specified work, unless by mutual agreement the work is continued after the end of the period or the completion of the work.

The requirements of the Act regarding the period of notice do not apply where a different period is established in a collective agreement, or in a written agreement of employment between the employer and employee, if the notice period is of equal length for both parties. Further, a well-established general custom or practice in any industry respecting the period of notice may be continued, in lieu of the period of notice provided for in the Act.

All employers and employees within the jurisdiction of the province are covered by the Act. Regulations may be made exempting any industry or class of persons from coverage.

The Termination of Employment Act, 1973 was proclaimed effective on May 5, 1976.

The notice of termination of employment shall not be less than:

- eight weeks' notice if the employment of 50 or more and less than 200 persons is to be terminated;
- 12 weeks' notice if the employment of 200 or more and less than 500 persons is to be terminated;
- 16 weeks' notice if the employment of 500 or more persons is to be terminated.

Nova Scotia

Individual Notice

In Nova Scotia, the Code forbids an employer to discharge or lay off an employee who has been employed for three months or more without first giving him written notice in case of either individual or group termination.

In cases of individual termination, the notice period varies with the length of service:

less than 2 years	1 week
2 - 5 years	2 weeks
5 - 10 years	4 weeks
10 years or more . . .	8 weeks

Group Notice

Notice of group termination must be given to each employee affected where 10 or more employees are to be discharged or laid off within a period of four weeks or less. The Minister of Labour must be informed in writing of any group notice. The notice period varies with the number of employees being dismissed.

10 - 99	8 weeks
100 - 299	12 weeks
300 or more . . .	16 weeks.

General Provisions

An employee employed for three months or more must also give his employer notice before quitting his job unless the employer has been guilty of a breach of the terms and conditions of employment. The notice period depends upon the length of employment:

3 months to 2 years . . .	1 week
2 years or more	2 weeks.

Where a person continues to be employed after the expiry of the notice for a period exceeding the length of notice, he must be given notice again before his employment may be terminated.

Successive periods of employment may be accumulated unless there has been a break of more than 13 weeks in employment, in which case the last period of employment is counted.

An employer must not alter wages and conditions of employment once notice is given, whether by the employer or employee, and must, upon the expiry of the notice, pay the employee all pay to which he is entitled.

Notice may be made conditional upon the happening of a future event if the required notice period is observed.

An employer may terminate an employee's employment immediately upon giving notice if he gives the employee pay in lieu of notice. This pay must be equivalent to the amount the employee would have earned at his regular rate in a normal, non-overtime workweek during the required notice period.

As already mentioned, notice is required in case of layoff. The requirement does not apply where a person is laid off for 6 consecutive days or less, or in circumstances defined by regulations. An employee who is not entitled to notice because of the duration of his layoff and whose employment is subsequently terminated (by continued layoff or otherwise) must be given pay in lieu of notice as if his employment had been terminated without notice when he was first laid off.

The requirement to give notice does not apply where the employee has been guilty of wilful misconduct or disobedience, or wilful neglect of duty that has not been condoned by the employer.

Persons employed for a definite term or task for a period of 12 months or less are not entitled to notice. However, if the person continues to be employed for three months or more after the completion of his term or task, he is to be considered a regular employee and therefore entitled to notice. His period of employment is deemed to begin at the commencement of the term or task.

In additions, persons discharged or laid off for any reason beyond the control of the employer are not entitled to notice if the employer has exercised due diligence to foresee and avoid the cause. Among these reasons are labour disputes, detruaction of plant or machinery, unavailability of materials, cancellation or lack of orders, and actions of government authority.

Excluded also are persons who have been offered reasonable alternate employment by the employer or who have reached retirement age according to the established practice of the employer. Employees in the construction industry are excluded from the requirement both to receive and to give notice. Furthermore, regulations may exempt persons employed in any activity, business, work, trade, occupational profession or any part of these.

The length of notice does not include any week of vacation unless the employee agrees to take his vacation during the notice period.

Ontario

Individual Notice

In Ontario, an employer is required to give notice in writing to an employee whose employment is to be terminated, provided the employee has completed three months' service or more. The length of notice varies with the period of employment, as follows:

3 months to 2 years	1 week
2 to 5 years	2 weeks
5 to 10 years	4 weeks
10 years or more	8 weeks.

A period of employment constitutes the period between the time employment first began and the time that notice was or should have been given. Successive periods of employment may be accumulated, unless there has been a break of more than 13 weeks in employment. In such a case, the period of last employment constitutes the length of service for purposes of the notice.

Group Notice

The group notice requirement applies when an employer plans to terminate the employment of 50 or more persons within four weeks or less. The length of notice is related to the number of workers involved. The minimum written notice that must be given by the employer to the employee and to the Minister of Labour is:

50 - 199	8 weeks
200 - 499	12 weeks
500 or more . .	16 weeks.

Where not more than 10 per cent of the persons employed in an establishment are to be dismissed in a four-week period, and these total 50 or more persons, the requirement for notice in the case of individual dismissal applies, unless the termination is caused by the permanent discontinuance of all or part of the employer's business.

Persons who have been employed for less than three months are not to be counted in determining the number employed in an establishment and are not entitled to notice.

In the case of a collective dismissal, the employer is required to co-operate with the Minister during the period of notice in any action or program designed to re-establish the dismissed workers in employment.

Employees who have received notice of a collective termination of employment are required to give written notice to their employer that they intend to quit their jobs. One week's notice is obligatory for an employee who has worked for the employer for less than two years, and two weeks' notice for one who has been employed for two years or more.

General Provisions

A number of provisions are applicable to both individual and group notice.

Where notice is given, employment must continue until the notice has expired. The length of notice may not include any week of vacation, unless the person, after receiving the notice, agrees to take his vacation during the notice period. Where a person continues to be employed after the expiry of the notice for a period exceeding the length of the notice, he must again be given notice before his employment may be terminated.

Under the legislation, the employer is required to give the prescribed notice or to pay the wage or salary equivalent. The employer terminating the employment of an employee without notice must notify him in writing to this effect and pay him the equivalent of the wages he would have earned for working regular hours during the notice period. Compensation payable in lieu of notice is deemed wages for purposes of the Act.

The employer is forbidden to alter the wage rate or any other term or condition of employment of a person to whom notice has been given, and upon the expiry of the notice must pay him the wages and vacation pay to which he is entitled.

The Act covers layoffs other than "temporary layoffs", as defined. Notice of indefinite layoff is deemed to be notice of termination of employment.

A "temporary layoff" is defined as: (1) a layoff of not more than 13 weeks in any period of 20 consecutive weeks; (2) a layoff of more than 13 weeks where (a) the person continues to receive payments from the employer, (b) the employer continues to make payments for the benefit of the person laid off under a bona fide retirement or pension plan or under a bona fide group or employee insurance plan, (c) the person laid off receives supplementary unemployment benefits, or (d) he is entitled to receive supplementary unemployment benefits, but does not receive them because he is employed elsewhere during the layoff; or (3) a layoff of more than 13 weeks where the employer recalls the person within the time fixed by the Director of Employment Standards.

The notice provisions do not apply to a person who is laid off or whose employment is terminated during or as a result of a strike or lockout at his place of work or who has been employed for less than three months. Also exempted from the requirement to receive notice are: (1) a person who is laid off after (a) refusing an offer by his employer of reasonable alternate work or (b) refusing alternate work made available to him through a seniority system; (2) a person on layoff who does not return to work within a reasonable time after being requested to do so by his employer; (3) a person employed under an arrangement such that he may elect to work or not for a temporary period when requested to do so; and (4) a person who has reached the age of retirement according to the established practice of the employer.

An employer is not required to give notice to a person employed for a definite term or task. Where, however, a term or task exceeds a period of 12 months or the person continues to be employed for three months or more after completion of the term or task, the notice provisions apply.

A person who has been guilty of wilful misconduct, disobedience or wilful neglect of duty that has not been condoned by the employer is not entitled to notice, and notice is not required where a contract of employment becomes impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance.

Any notice of termination may be made conditional upon the happening of a future event.

An employee may terminate his employment forthwith upon notice if his employer has been guilty of a breach of the terms and conditions of employment.

The construction industry has been exempted from the requirement to give notice. Other employers are covered, including the Crown and its agencies. Those entitled to notice include professional employees, teachers, commercial fishermen, domestic servants, farm workers and salesmen.

The regulations take into account the bumping provisions that may be permitted by the terms of employment. Where the terms of employment authorize that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met by posting a notice containing the salient facts in a conspicuous place in the establishment.

Prince Edward Island and Saskatchewan

In Prince Edward Island and Saskatchewan an employer is forbidden to discharge or lay off an employee who has been in his service continuously for three months or more without giving him at least one week's written notice.

"Layoff" is defined in Saskatchewan as the temporary termination of an employee's service for a period of more than 6 days.

In both provinces, on termination the employee is entitled to his actual earnings during the week or his normal wages for one week, exclusive of overtime, whichever amount is greater. If notice is not given, the employee is entitled to his normal wages for one week, exclusive of overtime. In Saskatchewan, an employee must receive full pay from his employer within 14 days after the day on which his termination becomes effective. Where an employee's wages vary from week to week, in Saskatchewan, his normal weekly wage is to be obtained by averaging his earnings, exclusive of overtime, for the four-week period immediately preceding the date on which notice was given or, if no notice was given, the date of discharge or layoff.

In Saskatchewan, the employer shall within 14 days, pay to the employee, in addition to all amounts due to him, his average wage for his period of employment with the employer. However, if the employee has at any time been entitled to take an annual holiday under any act, custom or agreement, or under his contract or service, the employer shall within 14 days pay the employee, in addition to all other amounts due to him, his average wage for his period of employment between the dates on which he became entitled to the last annual holiday that he was entitled to take and the date of the termination of employment.

The Prince Edward Island Act also requires an employee with three months' service or more to give his employer at least one week's notice of his intention to terminate his employment.

The requirement to give notice applies to all employees and their employers except farm workers in both provinces and domestic servants in Prince Edward Island. Saskatchewan also excludes ranching, certain handicapped persons, market gardening and employees employed in family undertakings, and Prince Edward Island excludes construction, tourist establishments operating less than six months in a year, and students employed during the period May 1 to October 1.

In certain circumstances notice is not required; namely, discharge for just cause other than shortage of work in Saskatchewan and just cause including shortage of work in Prince Edward Island.

Québec

Individual Notice

In Québec, Section 1668 of the Civil Code requires a domestic, servant, journeyman or labourer engaged by the week, month or year to give one week's notice of termination of employment if hired by the week, two weeks' notice if by the month, and a month's notice if by the year. The employer must give similar notice where an employee's services are no longer required.

Some decrees under the Québec Collective Agreement Decrees Act also require the giving of notice of termination of employment.

Group Notice

Under section 45 of the Manpower Vocational Training and Qualification Act, an employer who, for technological or economic reasons, contemplates the dismissal of 10 or more employees within a period of two months is required to give advance notice to the Minister of Labour and Manpower. The minimum periods of notice required, varying with the number of workers to be dismissed, are:

10 to 99 . . .	2 months
100 to 299 . . .	3 months
300 and over . .	4 months

"Employee" does not include a seasonal or casual worker or a director or officer of a corporation.

The requirement to give notice does not apply to an employer in the construction industry or to an employer carrying on an undertaking of a seasonal or intermittent nature. The legislation does not apply to an establishment involved in a strike or lockout.

Layoffs are included in the term "dismissal" but the employer does not have to give notice if he lays off employees for an indefinite period of time, unless the layoff will continue for more than six months.

Where a fortuitous or unforeseeable event prevents an employer from giving notice, he must inform the Minister as soon as he is in a position to do so and furnish proof that he was unable to comply with the law. The Minister will then determine, in consultation with the employer, the period of notice that must be given.

The notice, which must be mailed by the employer to the Manpower Branch of the Department, and which becomes effective on the date of mailing, is to contain: (a) name and address of the employer or establishment; (b) nature of the principal product or service; (c) names and addresses of associations of employees (unions); (d) reasons for the collective dismissal; (e) date on which the collective dismissal will be made; and (f) full name of each employee likely to be dismissed.

The legislation also requires the employer, at the request of the Minister, to participate immediately in the establishment of a reclassification committee, whose task is to study and recommend practical measures for the re-establishment of the dismissed employees. The certified trade union or the employees, if there is no union, must be equally represented on the committee. The employer must contribute funds to the committee to the extent agreed upon by the parties. The Manpower Branch of the Department is responsible for the establishment and functioning of such committees.

The parties may, with the Minister's consent and subject to conditions laid down by him, establish a reclassification fund. If necessary, several employers and several certified trade unions may establish a joint fund.

10. Notice of Individual Termination

Jurisdiction	Notice Required	Application
Federal	2 weeks	Employers in federal industries Exclusions: employed less than 3 months, superintendents, managers, members of professions
Alberta	3 months but less than 2 years: 7 days 2 years or more: 14 days	Employers and employees Exclusions: where there is a custom, practice or agreement providing for (a) a longer notice of termination of employment, or (b) the payment of a greater sum of money in lieu of notice of termination of employment.
Manitoba	Pay period	Employers and employees Exclusion: employed less than 2 weeks, farm workers
Newfoundland	Pay period	Employers and employees Exclusion: employed less than 1 month
Nova Scotia	Employed less than 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: 8 weeks	Employers (employees different) Exclusion: employed less than 3 months, construction industry
Ontario	Employed less than 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: 8 weeks	Employers (special provisions for employee under notice of mass layoff) Exclusion: employed less than 3 months, construction

Jurisdiction	Notice Required	Application
Prince Edward Island	1 week	Employers and employees Exclusion: employed less than 3 months, farm workers, construc- tion
Québec	Hired by week: 1 week Hired by month: 2 weeks Hired by year: 1 month	Listed employees and their employers: domestics, servants, journeymen, labourers
Saskatchewan	1 week	Employers Exclusion: employed less than 3 months, farming, ranching, market gardening

11. Notice of Group Termination

Jurisdiction	Number of Employees	Notice Required
Federal	50 - 100	8 weeks
	101 - 300	12 weeks
	over 300	16 weeks
Manitoba	50 - 100	8 weeks
	101 - 300	12 weeks
	over 300	16 weeks
Newfoundland	500-199	8 weeks
	200-499	12 weeks
	500 or more	16 weeks
Nova Scotia	10 - 99	8 weeks
	100 - 299	12 weeks
	300 or more	16 weeks
Ontario	50 - 199	8 weeks
	200 - 499	12 weeks
	500 or more	16 weeks
Québec	10 - 99	2 months
	100 - 299	3 months
	300 or more	4 months

MATERNITY PROTECTION

Legislation to ensure the health and job security of women working before and after childbirth is in force in the federal jurisdiction and in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan.

The federal maternity leave provisions are contained in the Canada Labour Code, Part III, Division V.1. Alberta has an Industrial Relations Order covering the point. British Columbia has a special law on the subject, the Maternity Protection Act. The Manitoba provisions are contained in subsection 34.1 of the Employment Standards Act. The New Brunswick provisions are sections 11-13 of the Minimum Employment Standards Act, a law which regulates various conditions of employment. Nova Scotia's maternity protection provisions are contained in sections 56 and 57 of the Labour Standards Code. The Ontario maternity protection provisions form Part XI of the Employment Standards Act, 1974. Saskatchewan's provisions are contained in Part VA of the Labour Standards Act, 1969.

The Canada Labour Code states that a woman who has been continuously employed by her employer for at least one year is entitled to 17 weeks of maternity leave. Employment is deemed continuous where a business is sold or otherwise transferred to a new employer. The employee must make application at least four weeks before her leave is to begin and she must also submit a certificate from a qualified medical practitioner specifying the estimated date of delivery.

Every employee is entitled to and shall be granted maternity leave consisting of a period not exceeding 17 weeks, if confinement occurs on or before the date specified in the certificate or the aggregate of 17 weeks plus an additional period equal to the term between the date specified in the certificate and the actual date of confinement, if confinement occurs after the date specified in the certificate. The leave is to begin no earlier than 11 weeks preceding the date in the certificate and to end no later than 17 weeks following the actual date of confinement.

The postnatal leave may be shortened by mutual agreement of the employer and employee, if the woman submits a medical certificate certifying that the resumption of employment at the earlier time will not endanger her health.

Provision is also made for the above leave in special cases where a woman has not submitted an application as required by the Code. The employee must present her employer with a medical certificate specifying the probable date of delivery and certifying that during her period of leave she was incapable of performing her normal duties because of a condition arising out of her pregnancy that was not anticipated by the physician.

Job security is guaranteed by prohibiting dismissal or layoff of an employee who is entitled to maternity leave solely because she is pregnant or because she has applied for maternity leave. An employee who resumes work after leave must be reinstated in the position she occupied before her leave began or in a comparable position with not less than the same wages and benefits. Maternity leave is not to interrupt continuity of employment for purposes of calculating pension or other benefits.

In Alberta, Ontario, Manitoba, Nova Scotia and Saskatchewan, an employee must have worked continuously for her employer for at least one year in order to be eligible for maternity leave benefits.

Ontario, Nova Scotia and Manitoba provide for 17 weeks of maternity leave consisting of 11 weeks' voluntary prenatal leave and six weeks' compulsory postnatal leave. British Columbia and New Brunswick provide for 12 weeks of maternity leave, six weeks before and six weeks after childbirth, with the postnatal leave being compulsory. Alberta and Saskatchewan provide for 18 weeks of maternity leave, 12 weeks before and a compulsory period of six weeks after. On production of a medical certificate showing the expected date of confinement, the employee must be granted a period of leave of up to six or 12 weeks, depending on the province, preceding the specified date. In Saskatchewan, the employee may be granted the prenatal leave without application if she has bona fide medical reasons to cease work immediately and in Manitoba upon production of a medical certificate indicating the probable date of delivery and certifying that she is incapable of performing her duties because of a condition arising out of her pregnancy that was not expected by the physician. In Alberta and Ontario an employee who does not give two weeks' notice to her employer but who otherwise is entitled to pregnancy leave, shall, before the expiry of two weeks after she ceased to work, provide her employer with a certificate of a legally qualified medical practitioner stating that she was not able to perform the duties of her employment due to a condition arising from her pregnancy. The Alberta, Ontario, Manitoba, Nova Scotia and Saskatchewan Acts stipulate that the period of voluntary leave is to extend to the actual date of delivery.

In Ontario, Nova Scotia and Saskatchewan the employer has the right to require the employee to commence her leave at any time (in Saskatchewan up to a maximum of three months), if the duties of her position cannot reasonably be performed by a pregnant woman or if her performance is materially affected by the pregnancy. The employee must produce a doctor's certificate when required to do so by the employer.

The British Columbia and New Brunswick Acts forbid the employer to permit an employee to work during the six-week period following childbirth or during a longer period than six weeks, if recommended in a medical certificate. In Saskatchewan, a further six

weeks may be granted the employee upon production of a medical certificate giving bona fide reasons why the employee is unable to return to work. The Manitoba, Nova Scotia and Ontario laws do not provide for extension of the postnatal leave on medical grounds. In Manitoba, Nova Scotia, Ontario and Saskatchewan the obligation is on both the employee and the employer to observe the six weeks' compulsory leave, unless a shorter period is agreed upon by both parties and is supplemented by the recommendation in writing by a medical practitioner.


In all seven provinces, the right to maternity leave is supplemented by a guarantee that an employee will not lose her employment because of her absence on maternity leave. In Alberta, Manitoba, Nova Scotia, Ontario and Saskatchewan a woman with a minimum of one year's service is protected against dismissal throughout pregnancy. In British Columbia and New Brunswick, an employer is forbidden to give notice of dismissal and to dismiss an employee for reasons arising out of absence on maternity leave during a period of 16 weeks. In Manitoba, an employer is not required to reinstate an employee when she has remained absent from work for a period of more than 10 weeks following the actual date of delivery. The maximum amount of leave to which an employee is entitled in Saskatchewan must not exceed 18 weeks.

In Alberta, Nova Scotia, Ontario and Saskatchewan, the employer is required to permit the employee to resume work with no loss of seniority or accrued benefits. In Manitoba, for the purpose of calculating pension and other benefits employment after the termination of maternity leave is to be considered as continuous with employment before commencement of the leave.

In Alberta or Ontario, where the employer has suspended or discontinued operations during an employee's pregnancy leave, the employer shall, upon resumption of operations, reinstate the employee to her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time her leave of absence began with no loss of seniority or benefits accrued to the commencement of her leave of absence or in the absence of such a system shall reinstate her in her position or provide alternative work at no loss of pay, seniority or accrued benefits.

In Nova Scotia, certain employers may be exempted from the maternity protection provisions by regulation. In Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan the provisions apply to employers with one or more employees.

The federal jurisdiction and Nova Scotia allow for the taking of maternity leave at any time from 11 weeks before expected delivery for a total of 17 weeks.



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1977 Labour Standards in Canada



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LABOUR STANDARDS
IN CANADA

December 1977

LABOUR CANADA
Legislative Analysis

Hon. John Munro, Minister
T.M. Eberlee, Deputy Minister



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FOREWORD

This publication sets out the provisions of federal and provincial labour standards laws enacted by the end of 1977 in the areas of statutory school-leaving age, minimum age for employment, minimum wages, equal pay for equal work, hours of work, weekly rest-day, annual vacations, general holidays, termination of employment, maternity protection and severance pay.

"Standards" as used in the title means the minimum standards required by law. These standards are set out in narrative form and in tables, where appropriate.

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(Cette publication est également disponible en français)

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DIVISION OF LEGISLATIVE POWERS

Both the Parliament of Canada and the provincial legislatures have the power to enact labour laws. The jurisdiction of the provincial and federal governments arises from the British North America Act, Sections 91 and 92. Judicial interpretation of these sections gives provincial legislatures major jurisdiction, with federal authority limited to a narrow field.

Provincial authority is derived from the "property and civil rights" subsection of the B.N.A. Act. The right to enter into contracts is a civil right, and since labour laws impose certain restrictions on contracts between employers and employees, they fall within provincial authority as property and civil rights legislation. Provinces also have the right to legislate as to "local works and undertakings."

Federal jurisdiction in the labour law field arises from the right to regulate certain subjects expressly assigned to Parliament by Section 91 of the B.N.A. Act, or expressly excepted from provincial jurisdiction by Section 92. These subjects are of a national, international or interprovincial nature. In addition, Parliament has jurisdiction to regulate works wholly within a province which have been declared by Parliament to be works "for the general advantage of Canada or for the advantage of two or more of the provinces," as, for example, grain elevators, feed mills and uranium mines. By virtue of its exclusive power to regulate certain works and undertakings, Parliament has the incidental power to enact labour laws relating to those works and undertakings.

The Canada Labour Code applies to:

- (1) Works or undertakings connecting a province with another province or country, such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals and telegraph, telephone and cable systems.
- (2) All extra-provincial shipping and services connected with such shipping, e.g., longshoring and stevedoring.
- (3) Air transport, aircraft and aerodromes.
- (4) Radio and television broadcasting.
- (5) Banks.
- (6) Defined operations of specific works that have been declared to be for the general advantage of Canada or of two or more provinces, such as flour, feed and seed cleaning mills, feed warehouses, grain elevators and uranium mining and processing.

- (7) Most federal Crown corporations, e.g., the Canadian Broadcasting Corporation and the St. Lawrence Seaway Authority.

The jurisdiction of Parliament is generally limited to the above industries, with certain possible additions arising from subsequent judicial decisions.

In addition, Parliament has exclusive jurisdiction to pass laws dealing with the Yukon and Northwest Territories. Parliament has enacted legislation for local government in each territory, granting power over property and civil rights and matters of a local and private nature. Accordingly, the territorial governments have virtually the same legislative powers with regard to labour laws as do the provinces.

Labour standards legislation has been enacted by the Territorial Councils of the Yukon and Northwest Territories in most of the fields of legislation covered by this publication. Labour Standards Ordinances, modelled on the Canada Labour Code, Part III (Labour Standards), with modifications to meet the particular requirements of the Territories, went into force July 1, 1968. The Ordinances were revised in 1971 in the Yukon and in 1974 in the Northwest Territories. The Ordinances established minimum standards of hours of work, wages, weekly rest-days, annual vacations and general holidays for employees in the two Territories. Previous to the enactment of the Northwest Territories Ordinance, the only labour standards applicable were those established by mines legislation. Standards in the Yukon Ordinance replaced those previously laid down in the Yukon Labour (Minimum Wages) Ordinance, the Labour Provisions Ordinance and the Annual Vacations Ordinance.

The Commissioner of each Territory is to administer the Ordinance, with the advice and assistance of an Advisory Board, consisting of a chairman, an employers' representative and an employees' representative. Provision was made for the appointment of a Labour Standards Officer to administer the Ordinance, under the Commissioner's direction, and for the appointment of inspectors.

The Ordinances apply to employers and employees in any work, undertaking or business of a local or private nature in the Territories. The Northwest Territories Ordinance excludes domestic servants in private homes, trappers, persons engaged in commercial fisheries, and managers or superintendents or persons who exercise management functions. Members or students of designated professions may be excluded by regulations. The Yukon Ordinance applies generally but certain classes of employees are excluded from Part I governing hours of work.

STATUTORY SCHOOL-LEAVING AGE

In all provinces there is a school attendance law which makes it compulsory for children between specified ages to attend school. Exceptions are permitted where a child is unable to attend because of illness or other unavoidable cause and, in most provinces, because of distance from school (where no conveyance is provided) or lack of school accommodation. Some Acts stipulate that a child may be excused from attendance before reaching the statutory school-leaving age if he has already attained a specified standing. An exception may also be granted in special cases, if it appears to be in the interest of the child that he should be excused from school attendance or where the child is certified to be under efficient instruction elsewhere.

In Manitoba, a child over 15 may be permitted to leave school on production of a certificate signed by his parent or guardian, the school attendance officer and the superintendent of schools or, if there is no superintendent, by the school inspector.

In five provinces, a child may be exempted from school attendance for a temporary period on the application of his parent or guardian, if his services are required for necessary farm or home duties or for employment. The New Brunswick Schools Act states that the Minister of Education may issue a certificate relieving a child from school attendance for a maximum period of six weeks in each school term, on the written application of the child's parent, if he agrees with the reasons for such application. In Prince Edward Island, the Minister of Education may certify in writing to the regional school board that a child should be exempted from school attendance. No such exemptions are provided for in Alberta, British Columbia and Ontario.

In the Northwest Territories, if a child reaches his 15th birthday after December 31, he must attend to the end of the school year. In the Yukon a pupil must attend school until the last day in June in the year in which he attains the age of sixteen years. As in the provinces, a child may be exempted from school attendance if he is under instruction in some other satisfactory manner, if he is prevented from attending school for any unavoidable cause, or if he has reached a standard of education equal to or higher than that to be attained in the school. In the Northwest Territories, a child may be allowed to leave school before the statutory school-leaving age if he has completed Grade VIII or its equivalent. An exception is also permitted in the Northwest Territories in the case of a child who is unable to attend because of distance from school or lack of school accommodation.

The employment of children of school age during school hours is forbidden unless a child is excused for any reason provided in the Acts. The school-leaving age in each province and territory and the provisions for exemption for employment are shown in the table below.

1. Statutory School-leaving Ages
and Work Exemptions

Province	School-leaving Age	Work Exemptions
Alberta	16	
British Columbia	15 -- unless course completed at nearest public school and transport to higher school not provided	
Manitoba	16 -- must attend to end of school term	Over 12, for not more than 4 weeks in a school year if services needed in husbandry or home duties Over 15, with certifi- cate signed by parent, attendance officer and superintendent of schools
New Brunswick	15 -- unless Grade 12 passed	For not more than 6 weeks in each school term if Minister agrees with reasons for parents' application
Newfoundland	15 -- must attend to end of school year	For period stated in certificate if services needed for maintenance of self or others, child under 12 for not more than 2 months in a school year except with approval of Minister

Province	School-leaving Age	Work Exemptions
Nova Scotia	16	If 12, for not more than 6 weeks in a school year if services needed for home duties or other necessary employment If 13, with employment certificate if services needed for maintenance of self or others; medical certificate may be required
Ontario	16 -- unless secondary school or equivalent completed. Must attend to end of school year	
Prince Edward Island	15	If Grade 12 completed or Minister certifies exemption from school attendance
Québec	15 -- must attend to end of school year	For not more than 6 weeks in a school year if services needed in farming, home duties or maintenance of self or relatives
Saskatchewan	16 -- unless Grade 8 or equivalent passed also where exemption permitted by super- intendent	If services needed for maintenance of self or others

Province	School-leaving Age	Work Exemptions
Northwest Territories	15 -- must attend to the end of the school year if after December 31, or unless Grade 8 or equivalent passed. Also where distance from or lack of school accommodation prevents attendance	
Yukon Territory	16 -- unless for unavoidable cause, has reached a standard equal to or higher than school's standard or being instructed in a manner and to a standard satisfactory to the Superintendent	

MINIMUM AGE FOR EMPLOYMENT

The Canada Labour Code, Part III and regulations do not set an absolute minimum age for employment, but lay down conditions under which young persons under 17 years may be employed in federal undertakings. A young person under 17 may be employed in a federal industry only if he is not required to be in attendance at school under the laws of his province; the work in which he is to be employed is not likely to injure his health or endanger his safety; and he is not employed underground in a mine or in work prohibited for young workers under the Explosives Regulations, the Atomic Energy Control Regulations or the Canada Shipping Act.

Employment for young workers under 17 is subject to two further conditions: that an employee under 17 is not required or permitted to work between 11 p.m. and 6 a.m.; and that he is paid not less than \$2.65 an hour, unless he is undergoing on-the-job training under an approved training plan.

The Canada Shipping Act fixes a minimum age of 15 for employment at sea.

In the provincial jurisdictions, a minimum age for employment is set by mines Acts and a variety of other provincial legislation (child labour laws, Child Welfare Acts, the Alberta Labour Act, the Manitoba Employment Standards Act, factory or industrial safety laws and minimum wage orders).

Three provinces -- British Columbia, Nova Scotia, and Prince Edward Island -- have a child labour law, prohibiting employment below a specified age.

The British Columbia Control of Employment of Children Act forbids employment of a child under 15 in specified industries or occupations, unless a permit is obtained from the Minister of Labour. The Act applies to manufacturing, shipbuilding, electrical works, logging, construction, catering, public places of amusement, the mercantile industry, shoeshine stands, automobile service stations, road transport and the laundry, cleaning and dyeing industry.

Under the Nova Scotia Labour Standards Code, sections 65-67, employment of a child under 16 is forbidden in industrial undertakings (including mines, quarries and construction), the forest industry, garages and service stations, hotels and restaurants, operating elevators, theatres, dance halls, shooting galleries, bowling alleys and billiard and pool rooms, and in any employment prohibited by regulations. Subject to any Act or regulations, this restriction does not apply to an employer who employs members of his family. The employment of children under 14 is prohibited in work unwholesome or harmful to health or normal development, or which

prejudices attendance at school or the child's capacity to benefit from instruction; for more than eight hours in a day; for more than three hours in a school day (except with an employment certificate); on any day for a period that, when added to school hours, totals more than eight; at night between 10 p.m. and 6 a.m.; or any employment prohibited by regulation. The Nova Scotia Construction Safety Act sets a minimum age of 16 years for employment in construction.

The Prince Edward Island law (the Minimum Age of Employment Act) sets a minimum age of 15 years for employment in mining, manufacturing, shipbuilding, electrical works, construction, transport by road, rail or inland waterway, undertakings involving the conversion, canning or packaging of any farm or sea products and the printing and publishing of newspapers, books and magazines.

Two other provinces -- Alberta and Manitoba -- have fixed a minimum age for most employment in their labour codes.

In Alberta, a person under 15 may not be employed in any employment except with the written consent of the parent or guardian and the approval of the Board of Industrial Relations. As the school-leaving age is 16 and no exemptions are allowed for employment, children under 16 may work only when school is not in session. However, a person under the age of 15 may be employed if they have been excused from school attendance under the School Act for the purpose of securing vocational training through employment; or if they are enrolled in a work experience program approved by the Minister of Education and the Board of Industrial Relations.

A regulation under the Alberta Labour Act contains several provisions governing the employment of persons under 18 years. Children over 12 and under 15 may be employed: as deliverers of small wares for a retail store; clerks in a retail store; clerks or messengers in an office; or deliverers of newspapers, flyers or handbills if the employment is not likely to be injurious to the life, health, education or morals of the person. The parents of a person under 15 shall file with the employer written consent for the employment of the person. Employment of such person is limited to two hours in a day on which he or she is required to attend school; or eight hours on non-school days. Employment of a person under 15 is prohibited between 9 p.m. and 6 a.m. Further, persons over 15 and under 18 are forbidden to work between 9 p.m. and 12:01 a.m. on the premises of a retail business selling food or beverages (whether alcoholic or not) or any other commodities, goods, wares or merchandise, or petroleum or natural gas products, or any establishment, including a hotel or motel, where the owner is required to hold a visitor's accommodation business license, unless the young person works with and is in the continuous presence of at least one other person 18 years of age or over.

No young person shall work in the above-mentioned premises between the hours of 12:01 a.m. and 6 a.m. A young person between the ages of 15 and 18 years may work in other premises not specified above if the parent or guardian has given written consent and if the young person works with and is in the continuous presence of at least one other person 18 years of age or over.

In Manitoba, a child under 16 may not be employed in a factory. For any other employment, the minimum age is 16, unless a written permit is obtained from the Minister of Labour.

Five provinces have Child Welfare Acts which limit the employment of children in various ways. Under the Newfoundland Act, no child under 16 may be employed: (1) between 10 p.m. and 7 a.m. except in employment in which members of the employer's family are employed under his or her supervision; or (2) in any occupation prohibited by an order of the Lieutenant-Governor-in-council. Employers are forbidden to employ an unmarried girl under 16 in a restaurant, tavern or hotel without the written consent of her parents or guardian. Neither may a child under 16 be employed for remuneration when he is required to be at school by the provisions of the School Attendance Act, 1962.

In Alberta, the Child Welfare Commission may grant licences for employment of a child over 12 in any entertainment under certain conditions. It must be satisfied that there is no danger to the child's life, limbs, health, education or morals and that provision is made for his health and kind treatment. Where a person employs a child to perform for profit in public without a licence or contrary to the provisions of a licence he is guilty of an offence.

Under the Manitoba Child Welfare Act a municipal council may pass by-laws for regulating, controlling and licensing children employed as messengers, newspaper vendors, shoe shiners, pin boys or juvenile entertainers. No child may work for a fee in any of these occupations without a licence. No licence shall be issued to any female child or any male child under 12. Nor shall any child over 12 but under 14 be granted a licence without the authorization of his parents or guardian. No child may work at the occupation for which he is licensed during school hours nor (unless he is a juvenile performer) after specified hours in the evening, depending on the season. No person may habitually employ a child between the hours of 9 p.m. and 6 a.m. nor may he employ a child in any occupation likely to be injurious to his life, limbs, health, education or morals. Severe fines and penalties are imposed for abuses of children against the provisions of the Act.

The Saskatchewan Welfare Act provides that a child who is employed between 10 p.m. and 6 a.m. of the following day may be apprehended by a welfare officer or peace officer and taken to a place of safety. A person who (a) causes a child to be in a public place for the purpose of begging, etc., under the pretence of performing; or (b) causes a child under 13 to be employed between

10 p.m. and 6 a.m.; or (c) causes a child to be in a circus or place of public amusement to perform for profit is guilty of an offence and liable to a fine or imprisonment or both. A licence may be issued by the mayor or other authority to permit a child to take part in public entertainment under suitable conditions.

In Ontario, the minimum age for employment in an industrial establishment is 15 years. "Industrial establishment" is defined as being an office, factory or shop. A child of 14 may be employed in a shop, office or office building, restaurant, bowling alley, pool room or billiard parlour if the work is not likely to endanger his safety. The Child Welfare Act provides that girls under 16 and boys under 12 must not engage in or be licensed or permitted to engage in any street-trade or occupation. Boys between 12 and 16 must not engage in such trade between 9 p.m. and 6 a.m.

The Ontario Construction Safety Act fixes a minimum age of 16 years but permits the employment of 15-year-olds in such parts of a construction project as may be designated by the regulations. No provision has been made in the regulations to date for the employment of 15-year-olds. A minimum age of 16 has been established for the logging industry.

As the school-leaving age in Ontario is 16 years and no exemptions are now permitted for employment, the above-mentioned minimum ages which are below the age of 16 apply only to such time as school is not in session. No child under 16 may be employed in any employment during school hours.

In the other provinces, a minimum age for a wide field of employment is established in factory or industrial safety laws and, in Saskatchewan, a minimum wage order.

In New Brunswick, the Occupational Safety Act prohibits the employment of a child under 16 years of age in any place of employment without a written authorization from the Minister.

In Québec, the minimum age for employment in an industrial or commercial establishment is 16 years. The same minimum age applies to employment in hotels, restaurants, theatres and other places of amusement and to the employment by a department store or telegraph company of boys or girls as messengers. Children of 15 years of age may be employed in any of these workplaces during school vacations, but only with a permit from the inspector.

Boys and girls under 16 are forbidden to sell papers or carry on any street trade unless they can read and write fluently, and such work may not be carried on after 8 p.m.

In Saskatchewan, no person under 16 may work in a factory (which term includes dry cleaning establishments and laundries, garages and service stations, and coal, potash and sodium sulphate

mines) or in a hotel, restaurant, educational institution, hospital or nursing home. Regulations may be made prohibiting the employment of young persons under 18 in factories where the work is deemed dangerous or unwholesome. Unless a permit is obtained from an inspector, the hours of work for young persons under 18 are limited to 48 in a week and night work is forbidden.

Mines Acts in all provinces but Prince Edward Island (which has no mining operations) fix the minimum age for employment in mines. Females are forbidden to work in mines in the Northwest Territories, Nova Scotia, Ontario, Saskatchewan and the federal jurisdiction.

The minimum age for employment in mines, factories, shops, hotels and restaurants is set out in the table below. In most provinces, as indicated above, the legislation (apart from mines Acts) covers certain other classes of establishments in addition to those set out in the table.

Under a Mining Safety Ordinance in each Territory, the minimum age for employment underground or at the working face of any open-cut workings, pit or quarry is 18 years. The minimum age for surface employment in or about a mine is 16 years in the Northwest Territories.

Under the Labour Standards Ordinance of the Yukon, regulations may be made laying down conditions under which young persons under the age of 17 years may be employed. In the Northwest Territories, a person under the age of 17 may be employed in any occupation except in such occupations and subject to such conditions as are prescribed by regulation.

2. Minimum Age for Employment

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Alberta	17	15 except with permit ¹	15 except with permit ¹ ₂	15 except with permit ¹
British Columbia	18 below ground ³	15 except with permit	15 except with permit	15 except with permit
Manitoba	16 above 18 below	16	16 except with permit	16 except with permit
New Brunswick	Coal: 16 Metal: 16 above 18 below	16 except with permit	16 except with permit	16 except with permit
Newfoundland	16 above ⁴ 18 below	--	--	--
Nova Scotia	Coal: 18 below Metal: 16 above 18 below	16 ⁴	14	16 ⁴
Ontario	16 above 18 below	15 ¹	14 ^{1,5}	14 ^{1,5} (restaurants only)
Prince Edward Island		15	--	--
Québec	15 above 18 below	16 ^{6,7}	16 ⁶	16 ^{6,7}
Saskatchewan	16 above 18 below	16	--	16

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Yukon Territory	18 below	17 ⁶	17 ⁶	17 ⁶
Northwest Territories	16 above 18 below	-- ⁸	-- ⁸	-- ⁸

¹ A child under 16 may not be employed during school hours.

² Minimum age of 12 years in certain occupations, including work as clerk, delivery boy or delivery girl in retail store, with written consent of parent and subject to restrictions on hours (2 hours in a school day, 8 hours on any other day) if not injurious to life, health, education or morals.

³ A boy who has reached the age of 17 may be employed underground for the purpose of training.

⁴ Except in family undertakings.

⁵ A child of 14 may be employed if the work is not likely to endanger his safety.

⁶ The Government may exempt establishments from the Act.

⁷ For certain dangerous occupations, the minimum age is 18 for boys; for others, it is 16 for boys and 18 for girls.

⁸ A person under the age of 17 may be employed in any occupation except in such occupations and subject to such conditions as are prescribed by regulation.

MINIMUM WAGES

Minimum wage laws are in force in the federal jurisdiction, all ten Canadian provinces and the two Territories.

The Canada Labour Code (Part III, Division II) sets a minimum rate for employees 17 years of age and over in the federal industries. This rate may be increased from time to time by order of the Governor-in-Council. The rate for persons under 17 is established by regulation.

Employees who are paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to be paid the equivalent of the minimum wage.

An employer who is providing on-the-job training to increase the skill or proficiency of his employees, in accordance with conditions prescribed by the regulations, may be exempted from paying the minimum wage to such employees during the whole or part of the training period.

The Code provides also for the payment of a wage lower than the minimum rate to handicapped employees under a system of individual permits.

In Alberta, Manitoba, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan, minimum wage legislation is part of each province's labour standards code -- the Alberta Labour Act, Part III, Division II; the Manitoba Employment Standards Act, Part II; the Nova Scotia Labour Standards Code, sections 48-54; the Ontario Employment Standards Act, 1974, Part V; the Prince Edward Island Labour Act, Part II, section 51; the Saskatchewan Labour Standards Act, 1977, Part II. The other provinces have individual minimum wage laws.

In most provinces, minimum wage boards or other labour boards are authorized by law to recommend minimum rates of wages or to establish such rates with the approval of the Lieutenant-Governor-in-Council. In Ontario minimum rates are established by the Lieutenant-Governor-in-Council. In Alberta and British Columbia they are set by the Boards of Industrial Relations. The rates are then imposed by minimum wage orders or, in Ontario and Manitoba, by regulations under the provincial Employment Standards Act.

Except in two provinces, the Acts do not specify how the minimum wage is to be determined. In Manitoba, the board is directed to take into consideration and be guided by "the cost to an employee of purchasing the necessities of life and health." The Québec Minimum Wage Commission is directed to consider "competition from outside countries or from the other provinces and the economic conditions peculiar to the various regions of the province."

The practice is to fix a general basic wage, taking into account the cost of living, economic conditions and other relevant factors. The minimum wage rate is set mainly for the protection of the unorganized and unskilled worker. It constitutes a floor above which trade unions may negotiate with management for a higher standard. The boards hold public hearings and make extensive inquiries before minimum wage orders are put into effect. Minimum wage orders are reviewed fairly frequently.

The boards are composed of members who represent the interests of employers and employees and in some cases the general public, with an impartial chairman, frequently an officer of the Department of Labour. In British Columbia at least one member of the board must be a woman, and in Nova Scotia and Saskatchewan there must be two women on the board.

In most provinces, minimum wage orders now cover practically all employment. Domestic service in private homes is excluded in all provinces except Prince Edward Island. In Newfoundland, an employer may not pay less than \$30 per week for domestic service. Farm labour is also excluded in all provinces except Newfoundland. In Ontario and Nova Scotia this exclusion is limited to farming proper, certain farm-related occupations being covered. Fruit, vegetable and tobacco harvesters are covered by the minimum wage in Ontario. Persons in Manitoba who are employed in selling horticultural or market garden products grown by another person are covered. In Saskatchewan, minimum wage rates apply to egg hatcheries, greenhouses, nurseries and brush clearing operations, and in Alberta and Prince Edward Island to farm workers employed in commercial undertakings.

A few other classes of workers are excluded in most jurisdictions. Typical exclusions are supervisory and managerial employees, certain categories of employed students, registered apprentices, certain categories of salesmen, and members and students of professions.

Minimum wage orders apply to both men and women.

In all provinces general orders are issued setting hourly rates that apply to most workers throughout the province. In five provinces, these general orders are supplemented by special orders, applying to a particular industry, occupation or class of workers and in some cases taking into account a special skill.

British Columbia, which originally had a separate minimum wage order for each industry or occupation, has been consolidating its orders. Two special orders still remain; the minimum rates set by these orders are the same as the rate set in the general order.

Québec has four industry orders, governing public works, the retail food trade, sawmills and forest operations. Formerly there were eight special orders.

The other provinces set only a few special rates. Nova Scotia has established rates for employees in beauty parlors and province-wide rates for logging and forest operations and for road building and heavy construction. Special rates for construction, mining and primary transportation and for logging, forest and sawmill operations have been set in New Brunswick. A weekly rate has been set in Alberta for commercial agents and salesmen. Special rates contained within the general regulation in Ontario apply to the construction and ambulance service industries.

In the Northwest Territories, Labour Standards Regulations were issued under the Labour Standards Ordinance. The Ordinance requires the payment of a minimum rate of wages to employees who are 17 years of age and over.

Where employees are paid on a basis other than time, or on a combined basis of time and some other basis, they are required to receive the equivalent of the minimum wage.

In two provinces the orders provide that inexperienced workers may be employed during a specified period at a rate below the regular minimum. These rates may be applicable generally or to a particular occupation.

Provision is also made in the legislation of almost all jurisdictions for the employment of handicapped workers at rates below the established minimum, usually under a system of individual permits.

In all jurisdictions except New Brunswick, Newfoundland, Ontario, Saskatchewan and the Yukon Territory, the orders set special minimum rates for young workers. Student rates are set in two provinces.

In addition to setting minimum wage rates, minimum wage legislation usually contains other related provisions intended to protect the worker. The most prevalent of these provisions are described below.

Tipping is dealt with specifically in the Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Québec and federal legislation. These provisions make it clear that gratuities are not to be counted as part of wages. In New Brunswick the Minimum Wage Act established that money paid as a tip or gratuity, or as a surcharge or other charge in lieu of a tip or gratuity is the property of the employee to whom or for whom it is given and shall not be withheld by the employer. Québec orders state

that tips are the exclusive property of the employee, and the employer is not allowed to deduct them or to consider them as part of the wages paid, even with the employee's consent. Boards in other provinces take the position that gratuities are not to be regarded as wages.

In Québec employees of hotel trade establishments (e.g., hotels, restaurants, bars, camping grounds, etc.) who usually receive tips are paid at the rate of \$2.65 per hour. An employee in Ontario, working in a place licenced under the Liquor Licence Act, 1975 is entitled to \$2.50 per hour.

There are provisions in the orders of most provinces and the Territories (and also in the federal Labour Code) relating to the charges or deductions for board and lodging, where furnished by the employer to the employee.

In some jurisdictions (federal, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island, Québec, the Northwest Territories and the Yukon), the orders set limits on the amounts by which such charges may reduce the minimum wage. The Ontario orders fix the maximum amounts at which meals or a room or both may be valued for minimum wage purposes, where board and lodging are provided as part of wages. In the other provinces, the orders set the maximum charges or deductions that may be made.

The Northwest Territories stipulates that an employee's wages must not be reduced below the minimum wage for meals supplied; the furnishing and upkeep of uniforms; or for accidental breakages.

Maximum charges or deductions are not set in British Columbia orders. If the board finds that services are inadequate or charges are excessive, it may specify the maximum charges that may be made.

Requirements are also laid down in some minimum wage orders regarding the provision and maintenance of uniforms, where these are required to be worn.

Most general orders contain a "daily guarantee" or "call-in-pay" provision requiring that an employee who is called to work be paid for a certain number of hours, even if he is not put to work or if he works for a shorter period. This two-, three-, or four-hour minimum period, as the case may be, must be paid for at the minimum rate, except in British Columbia, where payment is required at the employee's regular rate of pay.

Under a Northwest Territories Regulation, an employee who is required to report for work must be paid a minimum of four hours' pay at his regular rate.

3. Minimum Wage Rates for Experienced Adult Workers

Jurisdiction	Rate	Effective Date
Federal	\$2.90	April 1, 1976
Alberta	\$3.00	March 1, 1977
British Columbia	\$3.00	June 1, 1976
Manitoba	\$2.95	September 1, 1976
New Brunswick	\$2.80	November 1, 1976
Newfoundland	\$2.50	January 1, 1976
Nova Scotia	\$2.75	January 1, 1977
Ontario	\$2.65	March 15, 1976
Prince Edward Island	\$2.70 \$2.75	July 1, 1977 July 1, 1978
Québec	\$3.00 \$3.15 \$3.27	January 1, 1977 July 1, 1977 January 1, 1978
Saskatchewan	\$3.00 \$3.15 \$3.25	January 1, 1977 January 31, 1978 June 30, 1978
Northwest Territories	\$3.00	June 7, 1976
Yukon Territory	\$3.00	April 1, 1976

4. Minimum Wage Rates for
Young Workers and Students*

Jurisdiction	Rates per Hour		Effective Date
Federal	Employees under 17:	\$2.65	April 1, 1976
Alberta	Employees under 18:	\$2.85	March 1, 1977
	Students under 18 employed part-time:	\$2.50	March 1, 1977
British Columbia	Employees 17 and under:	\$2.60	June 1, 1976
Manitoba	Employees under 18:	\$2.70	September 1, 1976
Nova Scotia	Underage employees 14 to 18:	\$2.50	January 1, 1977 ¹
Ontario	Students under 18 employed for not more than 28 hours in a week or during a school holiday:	\$2.15	March 15, 1976 ²
Prince Edward Island	Employees under 18:	\$2.35	July 1, 1977
		\$2.40	July 1, 1978
Québec	Employees under 18:	\$2.80	January 1, 1977
		\$2.95	July 1, 1977
		\$3.07	January 1, 1978

Jurisdiction	Rates per Hour		Effective Date
Northwest Territories	Employees under 17:	\$2.55	June 7, 1976

*New Brunswick, Newfoundland, Saskatchewan and the Yukon Territory have no special rates for young workers or students.

¹ Nova Scotia -- Except with approval of Minimum Wage Board, no more than 25% of employer's total workforce may be underage employees (14-18), except where his total working force is 7 or less he may employ 2. In a hotel, restaurant, motel or tourist resort during the period June 15 - September 15, up to 60% of employees may be underage workers. These rates do not apply in beauty parlours, logging and sawmill operations or road building and heavy construction.

² Ontario -- Student rates do not apply to the ambulance or construction industries.

5. Minimum Rates and Learning Periods
for Inexperienced Workers*

Jurisdiction	Hourly Rates and Learning Periods	Effective Date
Nova Scotia	During first 3 months of employment: \$2.50	January 1, 1977 ¹
Ontario	During first month of employment: \$2.55	March 15, 1976 ²

*No provision for lower rates for learners in federal jurisdiction, British Columbia, Manitoba, Prince Edward Island, New Brunswick, Newfoundland, Québec or Saskatchewan. In addition to the general rate for experienced workers, Nova Scotia has a learner's rate for beauty parlours.

¹Nova Scotia -- Inexperienced employees are persons with less than 3 months' experience in the work for which they are employed. Without the express approval of the Minimum Wage Board, the number of underage or inexperienced employees employed by the employer may not exceed 25% of his total working force. An employer whose total working force is seven or less may employ two inexperienced employees. However, in the case of an employer operating a motel, hotel, restaurant or tourist resort from June 15 to September 15, up to 60% of the persons employed may be underage or inexperienced employees during this period.

²Ontario -- Not more than 20% of total number of employees in an establishment may be employed as learners, and only persons who have no previous experience in the work may be paid learners' rates.

6. Maximum Charges Permitted
for Board and Lodging*

Jurisdiction	Meals		Lodging		Board and Lodging per week
	single	per week	per day	per week	
Federal	50¢		60¢		
Alberta	\$1.00		\$1.25		
Manitoba	50¢			\$5.00	
New Brunswick	\$1.25		\$1.25		\$3.30 per day
Newfoundland	75¢	\$12.50		\$5.50	\$18.00
Nova Scotia ¹	\$1.15	\$20.00		\$6.00	\$26.00
Ontario	\$1.15	\$24.00		\$11.00	\$35.00
Prince Edward Island	\$1.00	\$14.00		\$6.00	\$20.00
Québec ²	75¢			\$6.00	\$21.00
Saskatchewan ³	\$1.00 or \$3.00 per day		\$1.00		
Northwest Territories	65¢		80¢		
Yukon Territory	50¢		60¢		

*No maximum charges set in British Columbia.

¹Nova Scotia -- Logging and forest operations: board and lodging, \$4.00 per day; construction, no charges set; beauty parlour employees same as table.

²Québec -- Sawmill and forest operations: single meal, 65¢; board and lodging, \$1.95 per day; retail food trade, same as table.

³Saskatchewan -- Applies to hotels and restaurants and employees earning \$157.50 or less a week in educational institutions, hospitals and nursing homes only.

EQUAL PAY

The Parliament of Canada, the two territories and all provinces except New Brunswick have enacted laws which require equal pay for equal work without discrimination on the grounds of sex.

In six jurisdictions equal pay provisions are contained in the labour code -- the Canada Labour Code, Part III, Division II.1; the Ontario Employment Standards Act, 1974, Part IX; the Saskatchewan Labour Standards Act, Part V; the Nova Scotia Labour Standards Code (sections 55-57); the Yukon Labour Standards Ordinance; and the Manitoba Employment Standards Act (Part IV). In the other jurisdictions except New Brunswick equal pay provisions form part of human rights legislation -- the Alberta Individual's Rights Protection Act, the British Columbia Human Rights Act, the Québec Charter of Human Rights and Freedoms, the Newfoundland and Prince Edward Island Human Rights Codes and the Northwest Territories Fair Practices Ordinance.

In New Brunswick, equal pay is deemed to be included in the general anti-discrimination provisions in the Human Rights Code. No one can be discriminated against in terms and conditions of employment on any of the stated grounds, race, colour, sex, etc.

Newfoundland forbids any employer or person acting on his behalf to establish or maintain differences in wages between male and female employees, employed in the same establishment who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility, except where such payment is made pursuant to a seniority system or a merit system.

The Québec Charter of Human Rights and Freedoms states that an employer must without discrimination, grant equal salary or wages to the member of his personnel who perform equivalent work at the same place.

Prince Edward Island forbids all employers or persons acting on their behalf from discriminating between employees by paying one employee at a rate of pay less than the rate of pay paid to another employee employed by him for substantially the same work, the performance of which requires equal education, skill, experience, effort and responsibility and which is performed under similar working conditions, except where payment is made pursuant to a seniority system, merit system, or a system that measures earnings by quantity or production or performance. The seniority system and the quality or quantity systems cannot be discriminatory, however.

The Alberta Act forbids an employer to employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer (or vice versa) for similar or substantially similar work. The work is deemed

to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar. Reduction of an employee's rate of pay in order to comply with the legislation is prohibited.

The federal, Ontario, Saskatchewan and Manitoba provisions also protect persons of either sex against discrimination in the payment of wage rates. These provinces, and also Nova Scotia, lay down criteria for determining whether the work performed is the same or similar.

In the federal jurisdiction, an employer is forbidden to establish or maintain differences in wages between male and female employees employed in the same industrial establishment, who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility.

The Canadian Human Rights Act (partly declared in force) stipulates that it is a discriminatory practice for an employer to establish or maintain differences in wages between male and female employees employed in the same establishment who are performing work of equal value. "Work of equal value" is a composite of the skill, effort and responsibility required in the performance of the work and the conditions under which the work is performed.

In Ontario and Saskatchewan, the employer is prohibited from paying a female employee at a lesser rate of pay than that paid to a male employee (or vice versa) for the same work (similar work in Saskatchewan) performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions. Nova Scotia's provisions are identical to Ontario's except that they only apply to female employees.

In the federal, Alberta, Ontario and Saskatchewan jurisdictions the employer is forbidden to reduce the rate of pay of an employee in order to comply with the equal pay requirement. Further, in Ontario employee or employer organizations may not cause or attempt to cause an employer to pay wages that contravene the equal pay provisions of the Act.

In Manitoba an employer is forbidden to pay the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment, if the work required of, and done by, employees of each sex is the same or substantially the same. By way of clarification, the Act states that the work of male and female employees is to be deemed the same or substantially the same if the job, duties, responsibilities, or services that the employees are called upon to perform are the same or substantially the same in kind or quality and substantially equal in amount.

All the Acts, where applicable, make it clear that a difference in rates of pay based on a factor other than sex does not constitute failure to comply with their requirements. In Nova Scotia, however, the employer must establish that such a factor justifies a different rate of pay.

The Ontario and Saskatchewan Acts contain specific exceptions in addition to the general exception permitting a differential based on any factor other than sex. In both provinces, differences in rates of pay based on: a seniority system; a merit system; or in Ontario, a system that measures earnings by quantity or quality of production; do not constitute discrimination within the terms of the Act.

In Québec, a difference in salary or wages based on experience, seniority, years of service, merit, productivity or overtime is not considered discriminatory if such criteria are common to all members of the personnel.

In all provinces equal pay legislation is applicable to provincial government employees. The federal Act covers employees of Crown corporations but does not apply to other federal public servants. Rates of pay of classified public servants are set by classification, according to the type of work performed, without any distinction based on sex.

The procedure laid down for the enforcement of equal pay provisions may be invoked upon complaint to the director or the commission by the aggrieved person in New Brunswick, Newfoundland and Prince Edward Island. Québec allows a complaint from the aggrieved person or group of persons to the "Commission des droits de la personne".

In Alberta and Nova Scotia, investigation may be initiated upon complaint by the aggrieved person or upon the initiative of the director appointed under the Act. The provisions of the Saskatchewan Act require the director, where he receives a directive from the Minister or a request from the aggrieved person, to advise the Human Rights Commission of the complaint and to request the Commission to conduct a formal inquiry into the matter.

In the federal, Ontario, Nova Scotia and Saskatchewan jurisdictions enforcement no longer depends solely on a formal complaint. The equal pay provisions are enforced through inspection by the field staff of the respective Departments of Labour.

A complaint is to be registered in Newfoundland and Prince Edward Island with the Minister of Labour (of Manpower and Industrial Relations in Newfoundland); and in British Columbia, Manitoba and Saskatchewan with a designated officer of the Department of Labour (the director). In Alberta, complaints are made to the Human Rights Commission. The Alberta and British Columbia legislation imposes a six-month time limit for making a complaint.

In all jurisdictions, except Ontario, Nova Scotia and the federal industries, the legislation provides for an initial informal investigation into a complaint, usually by an officer of the Department of Labour. In Alberta, such an investigation is made by the Human Rights Commission.

In Newfoundland, if the person designated to make the inquiry is unable to settle the matter, a board or commission of one or more persons may be appointed. The commission is called the Human Rights Commission. The Minister may, in addition, appoint a commission when he deems it desirable to have an inquiry made into any matter within the purview of the Act.

In Alberta and New Brunswick, the Human Rights Commission will refer a complaint that is not settled under the initial investigation to a Board of Inquiry (appointed by the Minister) to investigate the matter. In British Columbia and Saskatchewan, the director may refer the matter to the Human Rights Commission, a permanent body established under the Act. In Alberta and British Columbia, the Commission may dismiss a complaint at any stage of proceedings if it is of the opinion that it is without merit.

In Prince Edward Island, if the Human Rights Commission cannot effect a settlement, it must make a report to the Minister who may appoint a board of inquiry (one or more persons). If the board does not effect a settlement, it makes recommendations to the Commission, which then reports to the Minister. The Minister may then make such orders as he deems fit.

In Québec, where a complaint has been made for the Commission, the Commission attempts to effect a settlement. If this attempt is unsuccessful, the Commission may then recommend the cessation of any act, payment of indemnity, etc., and seek an injunction if the recommendation is not complied with.

The recommendations of the board, commission, committee or referee, as the case may be, may be put into effect by an order of the Minister except under the Alberta, British Columbia, Saskatchewan and Québec Acts. Under the Alberta Act, the recommendations of the board are made to the Commission. If the Commission is unable to effect a settlement on the course of action to be taken with the person against whom the finding was made, the Commission must deliver all material pertaining to the complaint to the Attorney General who may apply to the Supreme Court for an order. The Human Rights Commission must issue an order and in Saskatchewan it may issue an order if it finds that there has been a contravention of the Act.

In Newfoundland, the order of the Minister may be appealed to the Supreme Court. Under the Alberta Act, a decision of the board of inquiry may be appealed to the Supreme Court. An appeal of a decision or order made by the Saskatchewan Human Rights Commission may be made to a judge of the Court of Queen's Bench. In British Columbia, an order of the Human Rights Commission may be enforced by filing it in the Supreme Court of the province.

In British Columbia a board of inquiry may direct the person whom it has found to be in contravention of the Act to cease or rectify the contravention. It may also include in its order a direction to pay the wages lost as a result of the contravention. In Saskatchewan, where the Human Rights Commission finds that a contravention of the Act has been made it may order compliance with the provisions including the payment of compensation to the aggrieved party for previous service that was the subject of the complaint. Every person who violates the provisions of the federal Act is guilty of an offence and is liable on summary conviction to a fine, imprisonment, or both. The employer may also be directed to pay arrears of wages to which the employee was entitled. In Alberta the judge may order compensation for the person discriminated against for all or any part of any wages or income lost or expenses incurred by reason of the discriminatory action.

In Ontario, the Director of Employment Standards (who, under the direction of the Minister of Labour, administers the Employment Standards Act) has authority to determine the amount of wages owing to an employee, where in his opinion an employer has contravened the equal pay provisions. The employer must be given a chance to be heard. For purposes of enforcement of the Act, this amount is to be deemed unpaid wages.

Where the director cannot determine the amount owing, the Minister may, on his recommendation, appoint a board of inquiry. The board is required to hear the parties and to recommend to the director the course of action that ought to be followed.

Under the wage collection procedure of the Employment Standards Act, the director is empowered to collect unpaid wages for an employee up to a maximum of \$2,000 and the employer is subject to a penalty of 10 per cent of the amount owing. An employer who has paid the wages and penalty as required has the right to apply to the Minister for a review, whereupon a person designated by the Minister is required to hold a hearing, giving the employer full opportunity to make submissions, and to decide the amount owing to the employee. If the employer is dissatisfied with the Minister's decision, he may appeal the decision to the Supreme Court on the grounds that it is erroneous in point of law or in excess of jurisdiction.

The legislation in Nova Scotia is similar to that in Ontario. Where the Director of Labour Standards finds that an employer has not paid equal wages, he may direct the employer to pay the amount due to the employee to the Labour Standards Tribunal. If he disputes the director, the employer may apply to the Tribunal for a determination of the amount. If the Tribunal finds the employer is indebted to the employee, it must order the employer immediately to pay over to the Tribunal the amount of pay found to be unpaid. The person to whom the order is directed must forthwith comply with the order.

Provision is made in all the Acts for prosecution in the courts as a last resort. Failure to comply with the Act or an order is made an offence punishable by a fine. In Newfoundland, Ontario and Saskatchewan, the convicting magistrate must order the payment of wages due, in addition to imposing a fine. Under the federal Act, an employer convicted of an offence under the Act may, in addition to any other penalty, be made liable for payment of wages found to be due.

Each of the Acts makes it an offence for an employer to dismiss or otherwise discriminate against an employee because he has made a complaint or given evidence under the Act.

A number of the laws provide that a person claiming to be aggrieved by an alleged contravention of the Act has a choice of initiating court proceedings or of making a complaint. Some Acts stipulate that the right of an employee to take any other proceeding for recovery of wages to which he is entitled is not barred by reason of any remedy provided for in the Act.

The Northwest Territories Fair Practices Ordinance, which is a Human Rights Code, provides for equal pay for equal work. The Ordinance forbids an employer to employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer for similar or substantially similar work. The work is deemed to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar. Reduction of an employee's rate of pay in order to comply with the legislation is prohibited. A difference in rates based on a factor other than sex does not constitute discrimination.

Enforcement is initiated by complaint of the aggrieved person to the officer appointed by the Commissioner of the Northwest Territories to deal with such matters. The Commissioner may then appoint an officer to inquire into the complaint. If settlement is not reached through conciliation, the officer must recommend to the Commissioner the action that should be taken with respect to the complaint. The Commissioner may issue whatever order he thinks necessary to put the recommendations into effect. A person affected by the order may appeal it within 10 days to a judge of the Territorial Court, whose decision is final.

In the Yukon Territory, sections of the Labour Standards Ordinance prohibit an employer from paying a female employee at a lesser rate of pay than that paid to a male employee or vice versa for "the same work performed under similar working conditions" except where such payment is made pursuant to a seniority system; a merit system; a system measuring earnings by quality or quantity of production; or a differential based on any factor other than sex. Reductions of an employee's pay in order to comply with this legislation is not permitted. Employers' and employees' organizations are prohibited from causing or attempting to cause an employer to pay his

employees rates of pay that contravene the legislation. Where the employer has not paid the wages required, the Labour Standards Officer may determine the amount owing the employee and such amount shall be deemed to be unpaid wages. Where the officer is unable to effect a determination, the matter is referred to the Advisory Board for investigation. The board, upon review of the matter recommends what action should be taken.

HOURS OF WORK

Federal

Hours of work of employees in undertakings within the federal labour jurisdiction are regulated by the Canada Labour Code, Part III, Division I.

The Code sets a standard workday and workweek and requires payment of an overtime rate for work done beyond the hours specified. It also establishes a maximum workweek, overtime hours being restricted to eight in a week, except in special circumstances.

Under the Code, standard hours (the number of hours that may be worked at regular rates of pay) are limited to 8 in a day and 40 in a week. Hours in excess of eight and 40 may be worked, however, provided one and one-half times the regular rate is paid, up to a maximum of 48 hours in a week.

In a week in which an employee is entitled to a general holiday with pay (under Part III, Division IV of the Code) the overtime rate is to be paid after 32 hours, instead of 40. In calculating overtime for the week, no account is to be taken of any time worked on the holiday.

Because some types of employment may call for a more flexible arrangement of working hours, the Code permits the averaging of hours over a period of two or more weeks. Under a system of averaging, working hours may vary from day to day or from week to week so long as the total standard hours do not exceed 40 multiplied by the number of weeks in the averaging period. The overtime rate (one and one-half times the regular rate) must be paid at the end of the averaging period for all hours worked in excess of such standard hours. The total number of hours that may be worked by an employee in an averaging period is the product of the number of weeks in the period multiplied by 48.

Averaging is permitted for any class of employees who have no regularly scheduled working hours or who have regular hours but the number of hours scheduled differs from time to time. On notification to the Department of Labour, an employer may select an averaging period of 13 weeks or less.

If an employer requires a longer period for averaging than 13 weeks in order to provide for a period in which fluctuations take place (e.g., where there are seasonal rush and slack periods during the year), he must obtain the approval of the Minister of Labour. The same conditions apply as to a period of 13 weeks or less. The period over which hours may be averaged may be as long as a full year.

An employer who has adopted an averaging plan is required to post clear information about the plan in places where it can readily be seen by the employees affected.

When an employee terminates his employment of his own accord during an averaging period, he is paid his regular rate for his hours worked but he is not entitled to overtime pay. If this employment is terminated by the employer, however, he must be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.

Exceptions from the maximum workweek are permitted in certain circumstances. Work in excess of 48 hours in a week (or the maximum hours established in an averaging period) may be allowed under permit, when the Minister, having given due regard to the conditions of employment and the welfare of the employees, is satisfied that such exceptional conditions exist as to make the working of additional hours necessary.

A permit is issued for a definite period of no longer duration than the time the exceptional circumstances are expected to continue. The permit may specify either the total amount of excess overtime that may be worked in the period or the additional number of hours per day or per week that the employees may work. The number of employees engaged in such excess overtime and the extent of the overtime worked by each must be reported in writing to the Minister within 15 days after the overtime permit expires or within a time fixed in the permit.

Maximum weekly hours may also be exceeded to make up for the time lost due to an accident, breakdown in machinery or other emergency. The employer is required to report such emergency work within a specified time.

In order to deal with the special problems of some industries, regulations may be made, after public inquiry, varying the standard and maximum hours for classes of employees in any specified establishment where the Code provisions would be unduly prejudicial to the interests of the employees or seriously detrimental to the operation of the establishment, or entirely exempting a class of employees from the hours provisions where they cannot reasonably be applied.

Regulations may also be made specifying the circumstances under which the overtime rate will not apply because work practices make it unreasonable or inequitable. A general regulation issued under the Canada Labour Code provides for exemption from the overtime provisions in circumstances where there is an established work practice that requires or permits an employee to work in excess of standard hours for the purpose of changing shifts or permits an employee to exercise seniority rights to work in excess of standard hours pursuant to a collective agreement.

Different hours of work provisions have been established temporarily under the former deferred payment provisions of the Code for some industries, including shipping on the St. Lawrence River, the East Coast and Newfoundland.

Provincial

General Hours of Work Laws

Five provinces have Acts of general application regulating working hours (the British Columbia Hours of Work Act; the Alberta Labour Act, Part III, Division I; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, 1974, Part IV and the Saskatchewan Labour Standards Act, Part II).

The Acts of British Columbia, Ontario and Alberta set a maximum number of hours per day and per week beyond which an employee must not work. Hours are limited in British Columbia to eight in a day and 44 in a week and in Ontario to eight in a day and 48 in a week. Maximum hours of work in Alberta are limited to eight in a day and 44 in a six-day week. The weekly hours of work may be varied to provide for an average of 44 per week in each consecutive four-week period, provided that the total number in any one week does not exceed 48 hours.

All three laws provide for exceptions in certain circumstances. Exceptions are authorized in orders or regulations or through the issuing of a permit. In both Alberta and British Columbia, the administrative board has authority not only to permit working hours to exceed statutory limits but also to fix the minimum wage payable for overtime. In both provinces the board has made special orders for a considerable number of industries, permitting variations from the daily and weekly hours specified in the Act for exempting workers entirely from hours limitations.

In Ontario, the Director of Employment Standards may, by permit, authorize hours of work in an establishment in excess of eight and 48, subject to specific limits laid down in the Act. The limit for overtime is 12 hours in a week for an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman, or any other person who, in the opinion of the Director, is engaged in a similar occupation. For all other employees the limit for excess hours is 100 hours in each year for each employee.

The Director may also issue a permit authorizing working hours in excess of the overtime limits set out above, if he is satisfied that the nature of the work or the perishable nature of the raw material being processed requires the excess hours.

Subject to certain exceptions set out in the regulations, one and one-half times the regular rate must be paid for work done, under permit, beyond 48 hours in a week. Overtime shall be paid for work done beyond 44 hours. The employee's regular rate of pay must not be reduced in complying with this requirement.

Taxi drivers, and ambulance drivers and their helpers are not entitled to overtime pay. In certain industries -- highway transport, local cartage, road building, sewer and watermain construction, the hotel, motel, tourist resort, restaurant and tavern industry (seasonal employees) and fruit and vegetable processing (seasonal employees) -- extended hours, 50, 55 or 60, as the case may be, may be worked before the overtime rate applies.

The Manitoba and Saskatchewan Acts set standard hours of work. Overtime must be paid at one and one-half times the regular rate after eight hours in a day and 40 hours in a week. However, in the two provinces at only such time as an emergency exists are employees required to work overtime. (Manitoba after 40 hours and Saskatchewan after 44 hours.)

To prevent the working of excessively long hours, the Saskatchewan Act empowers the Lieutenant-Governor-in-Council to limit daily hours in any occupation to 12, except in special circumstances or when permission to work longer hours has been obtained from the Minister of Labour.

The Manitoba and Saskatchewan laws also provide for exceptions. The Manitoba law permits working hours to be varied in certain circumstances without payment of the overtime rates. The Manitoba Labour Board must review once a year any orders it makes under this authority. The Lieutenant-Governor-in-Council may, by order in council, declare that a state of public emergency exists or where a Royal Proclamation is issued under the Emergency Measures Act, and during the time that the emergency exists the provisions relating to overtime rates shall be and remain suspended. In Saskatchewan, regulations permit hours to be averaged over a specified period, thus allowing some variation from week to week. Certain classes of employees have been entirely exempted from the Act, with the result that these classes have no entitlement to overtime pay.

Under all the Acts, there is provision for working daily hours in excess of eight in order to establish a compressed workweek, so long as weekly hours are not exceeded. There is also provision, except in Saskatchewan, for hours to be exceeded in emergencies.

The standards set under hours of work laws and the application of each Act in general terms are set out in Table 7.

The Nova Scotia provisions respecting hours of work are incorporated in the Labour Code. The Minimum Wage Board is empowered, after investigation and subject to the approval of the

Lieutenant-Governor-in-Council, to issue orders determining the daily or weekly hours of work for persons employed in industrial undertakings. Currently the maximum hours per week are set at 48. The number of hours of work per day and/or per week may be varied in certain cases. The hours per day may vary provided that the total hours per week do not exceed the standard set by the Board. In addition, the hours of work may be exceeded in case of accident, urgent work, or "force majeure," but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking. The hours of work limit may also be exceeded where shift work is required.

Québec Ordinances

A minimum wage order of considerable significance with regard to working hours because of its wide coverage is the General Minimum Wage Ordinance No. 4 in Québec. Ordinance No. 4 is a blanket order applying to all employees in the province except those covered by decrees, workers governed by special minimum wage orders, farm workers, domestic servants, and a few other minor groups. The minimum rates set by Ordinance No. 4 apply to a standard workweek of 45 hours, after which an overtime rate of one and one-half times the minimum rate must be paid. A few classes of employees are excluded from these overtime provisions (e.g., fishing and harvesting industries and watchmen).

The standard workweek of employees by Ordinance No. 9 (Forest Operations) is 48 hours after which overtime at one and one-half times the minimum rate must be paid. Ordinances No. 10 (Sawmills) and No. 13 (Public Works) allow for similar overtime after 50 hours in a week. Ordinance No. 14 (Retail Food Trade) provides overtime at one and one-half times the minimum rate after a standard workweek of 40 hours.

The Territories

The Mining Safety Ordinances of both Territories provide for a maximum eight-hour day for work below ground in mines.

Under the Labour Standards Ordinance of the Northwest Territories, standard hours of work are eight in a day and 44 in a week for most employees. Except in special circumstances, maximum hours are 10 in a day and 54 in a week.

Different standards are laid down for certain classes of employees. Standard hours of 176 in four consecutive weeks have been established for persons employed in exploration and development of metal mining and petroleum (including geophysical, geological, seismological and diamond drilling work), the transport of goods to and from isolated areas, and in tourist camps. For these employees, maximum hours are 216 in the same period.

In the Yukon Territory, standard hours are eight in a day and 40 in a week. Maximum hours of work permitted are 10 in a day, 60 in a week and 260 in a month. Overtime beyond the limits of eight and 40 hours is prohibited for employees engaged in mining operations underground in a shaft or tunnel.

In all cases where an employee is required or permitted to work in excess of standard hours, he must be paid one and one-half times his regular rate.

Averaging of hours over a period of two or more weeks is permitted under both ordinances. The manner and circumstances in which averaging may be allowed are to be prescribed by regulations.

Exceptions from maximum hours are permitted in certain circumstances. Where work in an industrial establishment is seasonal or intermittent in nature, the Commissioner, after having considered the nature of the establishment, the conditions of employment and the welfare of the employees, may issue an order permitting excess hours to be worked.

In the Northwest Territories, hours in excess of maximum hours (10 and 54 or 216, as the case may be) may be worked with a permit issued by the Labour Standards Officer, when the applicant has satisfied him that there are exceptional circumstances to justify the working of additional hours.

Under both ordinances, maximum hours may be exceeded in an emergency due to an accident, breakdown in machinery or other unpreventable circumstances. Details of such emergency work must be reported (in the Yukon, only upon request).

The hours of work provisions of the Yukon Ordinance do not apply to members of the employer's family, individuals who search for minerals, travelling salesmen, domestic servants, farm labourers, and supervisory and managerial employees. Members and students of professions and other persons or classes of persons may be excluded by regulations.

Persons employed as hunting or fishing guides are exempted from the hours of work provisions of the Northwest Territories Ordinance.

Other Legislation Restricting Hours

Apart from general hours of work laws, other statutes regulate working hours in some industries.

Schedules under industrial standards legislation in seven provinces and decrees under the Quebec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act regulate hours in construction and other industries. Schedules and decrees apply to designated zones; a number apply throughout the province.

Generally speaking, standard weekly hours for the construction industry range from 40 to 48, with a 40-hour week being the usual standard in the larger centres. In Québec, a 40-hour week is set for tradesmen, a 42 1/2-hour week for labourers and a 50-hour week for road building.

In another industry regulated by schedules and decrees in Ontario and Québec, the garment industry, some standard weekly hours are 36 or 37 1/2. In most branches of the industry, standard hours have been reduced to 35.

In Manitoba, maximum hours which may be worked at regular rates are set under the Construction Industry Wages Act, which applies to both private and public construction work. At the present time an eight-hour day and a 40-hour week is in effect for most classifications of construction work in the Greater Winnipeg area, and a 44-hour week in the rest of the province. In the heavy construction industry, the maximum hours of work payable at regular rates are 54 except in Metropolitan Winnipeg during the period from November 1 to April 30, when a 48-hour week is in effect.

Working hours of employees under 18 are restricted by the New Brunswick Minimum Employment Standards Act and by factory legislation in two other provinces. Under the New Brunswick Minimum Employment Standards Act, which is applicable to any place of employment other than a private home or federal undertaking, hours of employees under 18 years are limited to nine in a day and 48 in a week, unless special permission to work longer hours is obtained from the Minister of Labour. Québec factory law restricts hours of employees under 18 to nine in a day and 50 in a week in factories and to 54 hours in a week in commercial establishments. In Saskatchewan, women and boys under 18 employed in factories are prohibited from working more than 48 hours in a week.

In Newfoundland, the Hours of Work Act limits working hours of shop employees anywhere in the province to eight in a day and 40 in a week, unless one and one-half times the regular rate is paid.

In all provinces except Manitoba, Ontario and Saskatchewan, there is also some indirect regulation of hours by virtue of provisions in minimum wage orders requiring the payment of an overtime rate after a specified number of hours of work.

A general minimum wage order in British Columbia encompasses most special groups formerly governed by separate orders. The order covers all groups except resident caretakers.

The standard workweek under the general order is 40 in a week and eight in a day. Maximum hours are set at 44 in a week and eight in a day. Payment of time and one-half the regular rate is required after eight hours in a day and in excess of 40 in a week excluding hours worked in excess of eight in any one day. Employees working under a written permit from the Board of Industrial Relations or pursuant to an agreement confirmed by the Board with respect to hours of work must be paid time and one-half the employee's regular rate of pay for all hours worked in excess of a weekly average of 40 over the averaging period, excluding hours worked in excess of eight in any one day.

In Saskatchewan, the Minimum Wage Board has no authority to fix overtime rates. All overtime pay requirements are laid down in the Labour Standards Act and orders under it. In Manitoba, overtime pay requirements are contained in Part III of the Employment Standards Act and regulations. In Ontario, overtime pay is required under the Employment Standards Act, 1974 and regulations.

Night Work for Women

Manitoba minimum wage regulations require employers to provide women employees whose work begins or ends between midnight and 6 a.m. with adequate transportation, without cost to the employee, between the place of residence and the place of employment.

In Saskatchewan, women employees in hotels, restaurants, educational institutions, hospitals and nursing homes who are required or permitted to finish work between 12:30 a.m. and 7 a.m. must be provided by the employer with free transportation to their homes. Night work for women is prohibited in factories, except with a permit from the inspector.

7. Hours of Work

Jurisdiction	Standards Set	Application
Federal	Standard hours: 8, 40 after which 1 1/2 times the regular rate Maximum hours: 48	Federal industries Exclusions: managers, superintendents and professional employees Exceptions ¹
Alberta	Maximum hours: 8, 44 after which 1 1/2 times the regular rate	Most employees Exclusions: managerial and confidential employees, farm labour, domestic service, Crown employees and municipal policemen ¹ Exceptions
British Columbia	Maximum hours: 8, 44 Overtime at 1 1/2 times the regular rate in excess of 40 in a week and 8 in a day	Exclusions: managerial and confidential employees ¹ Exceptions
Manitoba	Standard hours: 8, 40 after which 1 1/2 times the regular rate	Most employees Exclusions: professional employees, farming, domestic service, fishing, construction, travelling salesmen and a few other classes of employees
New Brunswick	Maximum hours: Employees under 18 9, 48 Overtime: 1 1/2 times the minimum rate after 44 hours	Most employees Exclusions: domestic service or farming Exceptions ¹

Jurisdiction	Standards Set	Application
Newfoundland	Maximum hours: Shop Employees: 8, 40 Overtime: 1 1/2 times the regular rate in excess of 40 in a week and 8 in a day for shop employees. Other employees: 1 1/2 times the regular rate after 44 hours	Most employees Exclusions: farming and domestic service
Nova Scotia	Maximum hours: 48	Most employees Exclusions: professional employees or students of these professions, farm labour, domestic servants, certain apprentices ¹ Exceptions ¹ and a few other classes of employees
Ontario	Maximum hours: 8, 48 Overtime: 1 1/2 times regular rate after 44 hours	Most employees Exclusions: supervisory and managerial employees, professional employees and students of these professions, farm workers, domestic servants, construction, commercial fishermen, resident janitors or caretakers, and a few other classes of employees Exceptions ¹
Prince Edward Island	Maximum hours: 48 Overtime: 1 1/2 times minimum rate after 48	Most employees Exclusions: registered apprentices, farm labourers and persons employed for the sole purpose of protecting and caring for children in private homes

Jurisdiction	Standards Set	Application
Québec	Standard hours: 45 after which 1 1/2 times the minimum rate is paid. (The fishing and harvesting industries and watchmen are excluded from over- time provisions)	Most employees Exclusions: employees governed by decree, those covered by special minimum wage ordinances, farm workers, domestics and a few other minor groups
Saskatchewan	Standard hours: 8, 40 after which 1 1/2 times the regular rate Special provisions are set for a 4- day week: 10, 40 after which 1 1/2 times the regular rate is paid	Most employees Exclusions: northern area of province, managerial employees, farm workers, domestic servants, certain professions and students of these professions, commercial travellers, logging, road construc- tion, and a few other classes of employees Exceptions ¹
Northwest Territories	Standard hours: 8, 44 Maximum: 10, 54 Exception: mining and petroleum exploration; isolated trans- portation and tourist camps; 176 hours in 4 conse- cutive weeks, maximum 216 Overtime: 1 1/2 times the regular rate after standard hours	Most employees Exclusions: hunting or fishing guides

Jurisdiction	Standards Set	Application
Yukon Territory	Standard hours: 8, 40 Maximum: day, 10; week, 60; month, 260 Overtime: 1 1/2 times regular rate after standard hours Note: Persons employed in mines not to work in excess of standard hours	Most employees Exclusions: members of the employer's family, prospectors, travelling salesmen and a few other minor groups

¹ Different standards set by regulation for some industries.

8. Overtime Rates

Jurisdiction	Overtime Rates
Federal	1 1/2 times the regular rate after 8 or 40 hours
Alberta	1 1/2 times the regular rate after 8 or 44 hours
British Columbia	1 1/2 times the regular rate after 8 or 40 hours*
Manitoba	1 1/2 times the regular rate after 8 or 40 hours
New Brunswick	1 1/2 times the minimum rate after 44 hours*
Newfoundland	1 1/2 times the regular rate after 44 hours ¹ *
Nova Scotia	1 1/2 times the regular rate after 48 hours ² *
Ontario	1 1/2 times the regular rate after 44 hours ³
Prince Edward Island	1 1/2 times the minimum rate after 48 hours*
Québec	1 1/2 times the minimum rate after 45 hours ⁴ *
Saskatchewan	1 1/2 times the regular rate after 8 or 40 hours
Northwest Territories	1 1/2 times the regular rate after 8 or 44 hours
Yukon Territory	1 1/2 times the regular rate after 8 or 40 hours

*Set by minimum wage orders.

- ¹ Newfoundland -- Not applicable to farm workers. Shop employees governed by Hours of Work Act, 1 1/2 times the regular rate after 8 or 40 hours.
- ² Nova Scotia -- Road building and heavy construction, and employees in transport industry required to be away from home base overnight, 1 1/2 times minimum rate after 96 hours in two weeks.
- ³ Ontario -- Highway transport, 1 1/2 times regular rate after 60 hours; local cartage, 1 1/2 times regular rate after 55 hours; road building, 1 1/2 times regular rate after 50 or 55 hours, depending on class of work; watermain construction, 1 1/2 times regular rate after 50 hours; seasonal employees not working more than 16 weeks in a year in fruit and vegetable processing industry and in hotel, motel, tourist resort, restaurant and tavern industry (in latter case, if provided with room and board), 1 1/2 times regular rate after 55 hours.
- ⁴ Québec -- Employees in fishing or fish processing, watchmen and employees engaged in fruit and vegetable picking and processing during the harvest season are not entitled to overtime pay; forest operations, 1 1/2 times the minimum rate after 48 hours; sawmills, 1 1/2 times the minimum rate after 50 hours; retail food trade, 1 1/2 times the minimum rate after 40 hours.

WEEKLY REST-DAY

The Canada Labour Code (Section 31) provides that employees must be given at least one full day of rest in the week, on Sunday, wherever possible.

Two exceptions from this general rule are provided for in the regulations. A weekly rest-day does not need to be granted where working hours are averaged over a specified period.

Where working hours in excess of 48 in a week are allowed under a permit from the Minister of Labour, the Minister may specify in the permit that a weekly rest need not be scheduled, as required by the Code, and may prescribe alternative periods of rest.

Eight provinces -- Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Québec and Saskatchewan -- provide for a weekly rest-day but the provisions vary in scope. These provisions are applicable to most employees within each jurisdiction.

The Alberta Labour Act requires all employed persons except farm workers and domestic servants to be given a day of rest in each consecutive period of seven days, unless the Board of Industrial Relations orders that the hours of rest be allowed in two periods or that a longer period than 24 hours be granted. The Act enables the Board to make special provisions for days of rest in industries which ordinarily operate at least one shift on each day of the week, and permits a consecutive rest period to be granted every four weeks or in relation to some other work period which the Board considers proper. The Board has made special provision for accumulated days of rest in the highway and railway construction, geophysical exploration, land surveying, brush clearing, oil well drilling, oil well service and pipeline construction industries, for employees of rural municipalities engaged in road work, and for cooks, night watchmen, etc., in lumber camps.

The general order under the British Columbia Minimum Wage Act provides for a rest period of 32 consecutive hours weekly. This order applies to most employees. Farm labourers and domestic workers are not covered by these provisions. The order governing the resident caretakers also require a 32-hour rest period to be granted. Different arrangements may be made on application of the employer and employees concerned, if the Board of Industrial Relations approves.

In Manitoba, the Employment Standards Act provides that a weekly day of rest, if possible Sunday, must be granted to most employees. Exempted are farm workers; independent contractors; persons employed in agriculture, fishing, fur farming, dairy farming or growing of horticultural or market garden products for sale;

domestics in a private home; specified volunteer workers; beneficiaries under a rehabilitation or therapeutic project given employment; students of professions; professionals; watchmen, janitors and firemen living in the building in which they are employed; managers and supervisory employees; repair workers in emergencies; and persons employed for not more than three hours on a weekly rest-day merely for the purpose of looking after horses as part of their usual duty. The Minister of Labour is given discretion to exempt a particular undertaking from the application of weekly rest provisions for a fixed period or indefinitely. Where a plant is exempted, each employee must be given an additional holiday without pay for each weekly day of rest to which he would have been entitled except for the permit of exemption, and the holidays may be accumulated.

Under the Newfoundland Weekly Day of Rest Act, an employer is required to grant his employees a weekly rest period of at least 24 consecutive hours, wherever possible on Sunday. The requirement does not apply to employees engaged in emergency work, or to persons employed solely in senior managerial capacities, as defined by regulation. The latter group has been defined to include managers, superintendents, supervisory personnel who themselves are not supervised, and members of specified professions.

Any employer or class of employers may be exempted by regulations, subject to such conditions as may be prescribed. Currently excluded are employers operating in remote areas whose employees have given the employer written notice that they do not wish a rest period; employees engaged in catching, handling and processing herring; and certain other narrowly defined groups in the fishing, pulp and paper and mining industries.

The Minister of Manpower and Industrial Relations may grant a permit exempting an employer from compliance with the Act for a period not exceeding 30 days in case of accident, urgent and necessary work to be done to premises or equipment, abnormal pressure of work, or danger of loss of perishables. The Minister may cancel or renew a permit and there is no restriction on the number of permits or renewals that may be granted to an employer. Where a permit is issued, an employee accumulates a period of holidays equivalent to the missed rest periods, with or without pay, in conformity with the pay provisions applicable to the missed rest periods. The employer must allow the accumulated holidays to be taken within 30 days of the expiry or the renewal of a permit.

The Newfoundland Hours of Work Act, which applies to shops throughout the province, requires shop assistants to be given a day off each week in addition to Sunday, except in the weeks in which one of the eight general holidays occurs. In the weeks in which one of the five other specified holidays occurs, they must be given a day off in addition to Sunday and the holiday.

The New Brunswick Minimum Employment Standards Act requires employers to give their employees a weekly rest of at least 24 consecutive hours, to be taken if possible on Sunday. Where a weekly rest is impracticable, the Minister of Labour may permit rest periods to accumulate and to be taken later, either part at a time or all together. The only employees not covered are farm workers, domestic servants, employees required to cope with an emergency and part-time workers who are not usually employed more than five hours in a day. Certain groups of employees may be designated by the Lieutenant-Governor-in-Council as being outside the scope of the Act.

In Nova Scotia, employees in industrial undertakings (e.g., mining, manufacturing, construction) must be granted a rest period of at least 24 consecutive hours in every period of seven days, preferably to all employees simultaneously on Sunday. This provision may be exceeded in continuous processes.

In Québec, Minimum Wage Order 4, applying generally to all industries within the scope of the Act not covered by special orders, provides for a weekly rest of at least 24 consecutive hours for the employees covered by its provisions. Farm workers, domestic servants and employees covered by decrees under the Collective Agreement Decrees Act are the only workers not within the scope of the Minimum Wage Act. The four special minimum wage orders also provide for a weekly rest of 24 consecutive hours. A regulation under the Québec Weekly Day of Rest Act, states that persons employed in hotels, restaurants or clubs, in places of at least 3,000 population, must have 24 consecutive hours of rest in a week. In the Québec district, the inspector may permit two periods of 18 hours each instead of one 24-hour period. Where there is only one cook, the 24-hour rest may be replaced by two 12-hour periods.

The Saskatchewan Labour Standards Act provides for a weekly rest of at least 24 consecutive hours. Exempted are workers employed in farming, ranching or market gardening, domestic servants, firemen, managerial employees, family employees employed in family undertakings and employees who are not usually employed for more than five hours in a day. The Minister of Labour may by permit exempt an employer from compliance with the weekly rest requirement for a specific period not exceeding one year. Any class of employers or employees may be excluded by regulations of the Lieutenant-Governor-in-Council, subject to such conditions as may be prescribed.

The Labour Standards Ordinance of the Northwest Territories provides that, unless an exception is made by regulations, employees must be given at least one full day of rest in each week and that the normal day of rest must be Sunday wherever practicable. In the Yukon each employee has two full days of rest in the week and, wherever practicable, Sunday shall be one of the normal days of rest in a week.

ANNUAL VACATIONS WITH PAY

The Canada Labour Code, Part III, Division III provides for a vacation with pay of at least two weeks in respect of every year of employment. Vacation pay is 4 per cent of wages for the year in which the employee establishes his claim to a vacation.

A year of employment, under the federal law, must be continuous with one employer, and may be a 12-month period commencing with the day the employee began to work for the employer or any subsequent anniversary of that date, or it may be a calendar year or another year approved by the Minister of Labour.

All provinces have annual vacation legislation. The provisions regarding annual vacations with pay are contained in the Alberta Labour Act, Part III, Division 2, and in two orders under it (a general order and a special order for the construction industry); in the Ontario Employment Standards Act, 1974, Part VIII and regulations; in Québec Minimum Wage Order 3; in the Saskatchewan Labour Standards Act (1977), Part V, and regulations; and in the Prince Edward Island Labour Act. British Columbia provides for annual vacations with pay and public holidays in one statute, the Annual and General Holidays Act. Manitoba, New Brunswick and Newfoundland have separate annual vacations laws. The Nova Scotia Labour Standards Code contains the vacation with pay provisions. Vacation with pay provisions are also contained in most decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act. Some industrial standards schedules make provision for pay in lieu of annual vacations.

Labour Standards Ordinances cover annual vacations for the two territories, consisting of at least two weeks per completed year of employment.

The Canada Labour Code applies to industries within federal jurisdiction and the only employees excluded are those who are managers or superintendents or who exercise management functions, and members of the medical, dental, architectural, engineering and legal professions.

The provincial and territorial laws govern employees in employment within the jurisdiction of the province, with the exception of the classes of employees noted below. The Newfoundland Act provides for the exemption of employees or classes of employees by order of the Lieutenant-Governor-in-Council. No regulations have yet been made.

Farm workers are excluded in all jurisdictions except Newfoundland and the Northwest Territories. In addition, British Columbia excludes persons employed in horticulture, and Manitoba and Saskatchewan, those employed in ranching and market gardening. (In

Alberta, Ontario, Prince Edward Island and Nova Scotia, workers in certain occupations related to farming are covered. Similarly in Saskatchewan, the Act applies to egg hatcheries, green houses and nurseries and bush clearing operations, and in Manitoba to landscape gardening and growing flowers, plants, ornamental shrubs and trees). Domestic servants are exempted in all provinces except Newfoundland, Prince Edward Island and Saskatchewan. Certain provisions of the Saskatchewan Act do not apply to employees employed in an undertaking in which only members of the employer's family are employed. Certain categories of employed students are excluded in Ontario and Québec. Also excepted are workers employed in commercial fishing in Nova Scotia, Ontario and the Northwest Territories.

Professional workers are excluded in British Columbia, Nova Scotia and Ontario. Salesmen paid entirely by commission and other special categories of salesmen, such as real estate and insurance agents are outside the scope of the Alberta and Nova Scotia vacation provisions. These same two provinces exclude real estate salesmen. Part-time workers employed 24 hours or less in a week are not covered in New Brunswick or Prince Edward Island; and those employed for eight hours or less in a week are exempted from the Alberta order. Nova Scotia also specifically excludes teachers.

The large group of workers governed by collective agreement decrees are outside the scope of the Québec vacation order. Workers governed by a collective agreement in British Columbia are exempted from the Act if the Minister of Labour approves the vacation provisions of the agreement.

The length of the vacation period and the vacation pay requirements in the various jurisdictions are shown in Table 9.

In Saskatchewan, an employee is entitled to three weeks annual vacation after one year of employment. Effective July 1, 1977 an employee with 11 years of service became entitled to a four-week vacation. During the following year the length of the qualifying service would diminish by one year; thus after July 1, 1978, the entitlement to a four-week vacation would be earned after 10 years and each subsequent year of employment.

As indicated in the table, Alberta and Manitoba require the payment of regular pay for the vacation period. Regular pay means the pay the employee would have earned for his normal hours of work during the vacation period and includes the cash value of board and lodging, where provided.

In the other jurisdictions, vacation pay is a percentage of the employee's earnings for the period during which he establishes his right to a vacation. The Acts vary in what is included as earnings.

In Québec, if a worker has not completed a year's service for the same employer, he is entitled to a continuous vacation of one day for each working month. Similarly, in Saskatchewan, regulations provide that, in order to make the vacation entitlement date of his employees uniform, an employer may grant to an employee with less than a year's service a continuous vacation of one day for each month of employment. The Board of Industrial Relations in Alberta may, in making a vacation pay order, require an employer to give an employee who has not completed a year of employment a vacation in proportion to the time worked.

Most of the laws specify the working time constituting a year of employment. In British Columbia and New Brunswick, a year's service consists of not less than 225 working days (in New Brunswick, working days or shifts). In Manitoba, an employee is held to have completed a year's service if he has worked not less than 95 per cent of the regular working hours during a continuous 12-month period. In Alberta, Newfoundland, Nova Scotia and Prince Edward Island, the employee must have worked 90 per cent or more of the working time during the year (of the regular working days in the establishment in Alberta and of regular working hours in Newfoundland, Nova Scotia and Prince Edward Island). In the territories a "year of employment" is defined as continuous employment of an employee by one employer for a period of 12 consecutive months beginning with the date employment began or any subsequent anniversary date.

Where an employee has worked less than the prescribed working time for a year's continuous service and continues to work for the same employer, he is entitled to a vacation on a pro rata basis in Alberta, and to accrued vacation pay for the period worked during the year in British Columbia, Manitoba, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island, Northwest Territories and the Yukon Territory. The vacation pay is payable in New Brunswick and Prince Edward Island not later than the next regular pay period after the end of the vacation pay year; in Manitoba, on the anniversary date of the workman's employment; in Newfoundland, within a week after the anniversary date; and in the other two provinces, within a month after the anniversary date.

The employer may determine the time when each of his employees may take the annual vacation to which he is entitled, within certain limits laid down by law. The vacation must be given in New Brunswick not later than four months after June 30; in Manitoba and Saskatchewan within 10 months, and in the federal jurisdiction, British Columbia, Newfoundland, Nova Scotia, Ontario and Prince Edward Island not later than 10 months after the date on which the employee becomes entitled to a vacation; in Québec within 12 months, and in Alberta not later than 12 months after the date of entitlement. In the Yukon and Northwest Territories, the vacation must be granted not later than 10 months after the date on which the employee becomes entitled to it. Vacation pay must be given at least one day before the vacation is to begin or at an earlier date, if the regulations so prescribe.

Nine jurisdictions require an employer to give notice to the employee of when his vacation is to begin. The minimum period of notice required is one week in Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island; two weeks in the federal jurisdiction; 15 days in Manitoba; 16 days in Québec; and 4 weeks in Saskatchewan. Under the Canada Labour Code, and in Manitoba, Newfoundland and Saskatchewan, another period of notice may be substituted by agreement. In Alberta, the employer must give the employee one week's notice, if agreement cannot be reached regarding the date on which the vacation is to commence.

An employer in a federal undertaking is required to pay his employees their vacation pay during the 14 days before the beginning of the vacation, except in cases where it is impracticable to do so and the custom of the establishment is to pay vacation pay on the regular payday during or immediately following an employee's vacation. Most of the provincial laws require vacation pay to be paid at least one day before the vacation begins. The Québec order simply states that vacation pay is to be paid before the employee's departure on vacation. In Saskatchewan, an employer must pay an employee his pay during the 14 days immediately preceding the beginning of the vacation.

The Canada Labour Code and several of the provincial laws stipulate that an employee's annual vacation is to be extended by one day in lieu of a general holiday that occurs during the vacation. (In Manitoba, Newfoundland and Saskatchewan, a general holiday is defined as a day for which he is entitled to be paid wages without being present at work.) The federal and Saskatchewan laws provide further that for the extra day the employee is to be paid the wages to which he is entitled for the holiday.

The Northwest Territories and Yukon Ordinances provide that, if a general holiday occurs during an employee's vacation, the vacation is to be extended by one day in lieu of the holiday, and that the employee must be paid the wages to which he is entitled for the holiday, in addition to his vacation pay.

Under the Canada Labour Code and all the provincial laws, workers are entitled to vacation pay on termination of employment during the working year. In most jurisdictions vacation pay must be paid immediately on termination of employment. In Ontario and Newfoundland, vacation pay is payable on termination or within one week; in Nova Scotia, within 10 days; in New Brunswick and Prince Edward Island, by the next regular payday following termination of employment and in Saskatchewan within 14 days of termination. In Newfoundland, if the employee is not entitled to an annual vacation he shall receive his pay within two pay periods or one month of his vacation whichever is earlier.

In Alberta, employers in the construction industry must give each employee (except office staff) vacation credits at the end of each regular pay period. The vacation credits (4 per cent of the employee's regular earnings) are to be recorded in the employer's payroll. The employee must be given the amount of money equivalent to his accrued vacation credits on December 31 or on termination of employment. If he is entitled to an annual vacation, he must be paid his vacation pay the day before his vacation commences.

In both Territories when employment is terminated during a year, the employee is entitled to any vacation pay owing to him in respect of a previous completed year of employment and to 4 per cent of his wages for the period he has worked during the year. An employee is not entitled to vacation pay, however, unless he has been continuously employed for 30 days or more.

When a business changes hands, an employee is considered to have been in continuous employment before and after the transfer.

The Yukon Ordinance excludes from its annual vacation provisions employees who are members of the employer's family.

Manitoba and the Northwest Territories provide for three weeks after five years' service. In Manitoba, an employee must work at least 50 per cent of the regular working hours in each of four years in the preceding 10 years to be entitled to three weeks for each year of service subsequent to the fourth year. After five years of employment with any one employer, be it five years continuous or five years accumulated with the past 10 years, an employee in the Northwest Territories is entitled to three weeks annual vacation.

9. Annual Vacation and Vacation Pay

Jurisdiction	Length of Annual Vacation	Vacation Pay
Federal	2 weeks	4% of annual earnings
Alberta	2 weeks	regular pay
British Columbia	2 weeks	4% of annual earnings
Manitoba	2 weeks; 3 weeks after 5 years' service	regular pay
New Brunswick	2 weeks	4% of annual earnings
Newfoundland	2 weeks	4% of annual earnings
Nova Scotia	2 weeks	4% of annual earnings
Ontario	2 weeks	4% of annual earnings
Prince Edward Island	2 weeks	4% of annual earnings
Québec	2 weeks	4% of annual earnings
Saskatchewan*	3 weeks; 4 weeks after 11 years	3/52 of annual earnings 4/52 of annual earnings
Northwest Territories	2 weeks 3 weeks after 5 years' service	4% of annual earnings 6% of annual earnings
Yukon Territory	2 weeks	4% of annual earnings

*Three weeks after one year's employment. Staged reduction to result in 4 weeks after 10 years as of July, 1978.

GENERAL HOLIDAYS

The federal jurisdiction, seven provinces -- Saskatchewan, Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia and Ontario -- and the two territories, have legislation of broad application dealing with paid general holidays.

In 1977, Québec Ordinance No. 15 produced the first paid legal holiday in that province.

Federal

Under the Canada Labour Code, Part III, Division IV, eight general holidays in a year are to be observed as paid holidays -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Code provides also that, under certain conditions, an alternative holiday may be substituted for any of the eight holidays specified.

Should a holiday occur on a day on which an employee does not normally work, he must be granted a day off with pay in lieu of the holiday, either at a time convenient to him and his employer or by the addition of a day to his annual vacation.

If Christmas, New Year's Day, Dominion Day or Remembrance Day fall on a Saturday or Sunday, that is a non-working day for an employee, he must be given a holiday with pay on the working day immediately before or after the general holiday. These provisions regarding alternative days off do not apply, however, to employees covered by a collective agreement that entitles them to at least eight paid holidays a year.

The Code lays down the general principle that an employee in a federal undertaking who does not work on a holiday is entitled to his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of the wages he would have earned at his regular rate for his normal working day. The regular rate of wages for an employee whose hours of work vary from day to day or who is paid other than on an hourly or daily basis is the average of his daily earnings, exclusive of overtime, for the days he worked during the four weeks immediately preceding the holiday, or an amount calculated by the method established by the collective agreement.

An employee in a federal undertaking who is required to work on a general holiday is entitled to his regular wages for the day and in addition, to time and one-half his regular rate for all time worked. In effect, he is paid two and one-half times his usual rate.

These holiday provisions do not apply to superintendents, managerial employees or members of designated professions.

Different provisions apply to employees employed in continuous operations who are required to work on a holiday. A "continuous operation" is defined to include any industrial establishment in which in each seven-day period operations normally continue without cessation until the end of the regularly scheduled operations for that period; the operation of trains, planes, ships, trucks and other vehicles; telephone, radio, television, telegraph or other communication or broadcasting services; or any other operation normally carried on without regard to Sundays or holidays.

An employee who works on a holiday must be paid his regular wages for the day and must, in addition, be paid time and one-half his regular rate for the time worked, or he must be granted a holiday with pay at some other time, either a day added to his annual vacation or another day convenient to him and his employer or, where a collective agreement so provides be paid for the holiday on his next non-working day.

There are some situations in which an employee is not entitled to holiday pay. An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment with an employer, but if he is required to work on a holiday he must be paid time and one-half his regular rate. If he is employed in a continuous operation, he may be paid at his regular rate for work done on a holiday.

A further exception is that an employee is not entitled to pay for a general holiday on which he does not work if he is not entitled to wages for at least 15 days during the 30 calendar days immediately preceding the holiday. An employee in a continuous operation is not entitled to pay for a general holiday if he did not report for work in response to a call from the employer, or if he makes himself unavailable for work in accordance with the conditions of employment prevailing in the establishment in which he works.

A general regulation provides that a longshoreman employed by an employer who is a member of a "multi-employer unit" is entitled to holiday pay if he is entitled to wages for at least 15 days or 120 hours in the 30 calendar days immediately preceding a general holiday. Pay for the holiday may not be less than eight times the employee's basic hourly wage rate.

A longshoreman employed by an employer who is not a member of a "multi-employer unit" must be paid, on each payday in lieu of general holidays, an amount equal to 3 per cent of his basic wage rate multiplied by the number of hours he has worked for the employer in the pay period.

An employee who is required to work on a general holiday is to be paid at not less than one and one-half times his basic rate of wages for the time worked by him on that day.

Alberta

In Alberta, a general holiday order requires employers to give their employees eight paid holidays a year - New Years's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Crown in right of Alberta and its employees, domestic servants in private homes, farm labourers (other than those in commercial undertakings), municipal policemen and various categories of salesmen are excluded from entitlement to public holidays.

The rule is that if one of the eight general holidays falls on a regular working day for the employee and he does not work on that day, he is entitled to his regular wages for the day.

If the employee is paid by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, the employee must receive the equivalent of his average daily earnings, exclusive of overtime, for his term of employment or for the two months he worked immediately preceding the week in which the holiday occurred.

Where an employee is required to work on a general holiday, he must be paid his regular pay for the day and, in addition, time and a half his normal wages for the time worked. Alternatively, he must be given a holiday with pay at some other time not later than his next annual vacation or on termination of employment, whichever occurs first.

An employee is not entitled to a holiday with pay if he has not worked for his employer for at least 30 days in the preceding 12 months; or if he does not work on the holiday when he has been required or scheduled to do so; or if he is absent without the employer's consent on either of the working days immediately preceding or following the holiday. If such an employee works on a general holiday, he must be paid at least his normal wages for all time worked.

If an employee is not required to work on a general holiday, he must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid his normal wages for the day, in addition to all other wages due him.

Construction workers in Alberta, with the exception of office staff, must be given holiday pay in a lump sum in lieu of being given a holiday with pay on each of eight general holidays.

An employer in the construction industry is required to pay each of his employees a sum equal to 3.2 per cent of his ordinary pay for the period of his employment or the period since he was last paid such sum. Pay in lieu of holidays must be given on December 31 of each year or on termination of employment.

British Columbia

In British Columbia, an order made under the Annual and General Holidays Act provides for nine paid general holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, British Columbia Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. Another day may be substituted for any of the listed holidays.

The order does not apply to employees covered by a collective agreement under the Labour Relations Act. Also excluded are: farm workers; horticultural workers; domestic servants; professional employees and trainees; and employees exempted by regulation from the Minimum Wage Act (e.g., supervisory, managerial and confidential employees, and caretakers).

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay at some other time not later than his next annual vacation, or the day on which he is required to be paid vacation pay where he has not earned an annual vacation, or on termination of employment, whichever occurs first.

An employee who is not required to work on a general holiday that would otherwise be a working day must be paid his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis he must receive the equivalent of a normal day's pay.

Where an employee's working hours vary from day to day, or where his wages are not calculated on a time basis, his pay for a general holiday is to be deemed to be the average of his daily earnings, exclusive of overtime, for the days he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid at his regular rate for all hours worked, in addition to all other wages due him.

The general rule is that, where an employee is required to work on a holiday, he must be paid not less than time and one-half his regular rate of pay for all hours worked and, in addition, must be given a holiday with pay at some other time not later than his

next annual vacation or the day on which he is required to be paid his accrued vacation pay, or on termination of employment, whichever occurs first.

Where an employee employed in a "continuous operation" is required to work on a holiday, he must, in addition to his regular rate of pay for the day, either be paid not less than time and one-half his regular rate for all hours worked or be given a holiday with pay at some other time. A "continuous operation" is defined as an operation or service normally carried on without regard to Sundays or public holidays.

For purposes of these provisions, an employee's "regular rate" is to be deemed to be the average of his hourly earnings, exclusive of overtime, for the hours he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment. An employee is also excluded from holiday benefits if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

Where certain employees of an employer are bound by a collective agreement, and other employees of the same employer are entitled to the general holidays provided for in the order, the employer may, with the approval of the Board of Industrial Relations, substitute a holiday specified in the agreement for a general holiday under the order, so that all his employees will be entitled to a holiday on the same day.

Manitoba

In Manitoba, the Employment Standards Act provides for seven paid general holidays a year -- New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. Under certain conditions, another day may be substituted for any of the holidays named in the Act. A special Act deals with the observance of Remembrance Day.

The holiday provisions do not apply to independent contractors; persons employed in agriculture, fishing, fur farming, dairy farming or growing horticultural or market garden products for sale; domestics in private homes; volunteers working in a religious, philanthropic, political or patriotic institution; beneficiaries under a rehabilitation or therapeutic project who are given employment; or students and practitioners of professions governed by statute.

An employee who does not work on a holiday that falls on a regular working day is entitled to be paid at least the equivalent of the wages he would have earned on that day. When an employee's wages vary from day to day, his holiday pay must be at least equivalent to his average daily earnings, exclusive of overtime, for the days he worked during the 30 calendar days preceding the holiday. The holiday pay must be paid whether or not the employee is on the employer's payroll at the time of the general holiday, unless the employee has voluntarily terminated his employment before that day.

Should a holiday occur on a day that is a non-working day for the employee, he must be granted a day off with pay in lieu of the holiday not later than at the time of his next annual vacation or at a time convenient to him and his employer.

If New Year's Day, Dominion Day or Christmas Day falls on a Saturday or Sunday that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately preceding or following the holiday.

An employer must not require an employee who has not worked on the holiday to work on another day in the holiday week that would otherwise be his day of rest, unless he is paid one and one-half times his regular rate for the work done on that day.

An employee who is required to and does work on a general holiday is entitled to his regular pay for the day and, in addition, to one and one-half times his regular rate for the work done on that day.

An employee is not entitled to holiday pay in the following situations: if he has not earned wages on at least 15 days during the 30 calendar days immediately preceding the holiday; if he did not report for work in response to a call from the employer on the day of the general holiday, except where he is dismissed or laid off by his employer or ill; or if he is absent without the employer's consent on the regular working day immediately preceding or following the holiday, unless absent because of established illness. However, an employee who is not entitled to holiday pay for any of the above reasons must be paid at the overtime rate if he works on the holiday.

Employees in the construction industry are entitled to a lump sum in lieu of paid holidays. Each employee must be paid 4 per cent of his total gross wages, exclusive of overtime, for the calendar year. This amount must be paid by December 31 or on termination of employment. Where an employee in the construction industry is required to work on a holiday, he must be paid at one and one-half times his regular rate for the time worked, in addition to the lump sum.

Special provisions are also applicable to employees in a continuously operating plant, seasonal industry (except construction), place of amusement, gasoline service station, hospital, hotel or restaurant, or in domestic service other than in private homes. For these employees, equivalent compensatory time off may be substituted for overtime pay for holidays worked. The time off must be granted within 30 days and the employee must be given at least two days' notice of his day off. At the request of the employee, he and his employer may agree to a later date.

A special act in Manitoba deals with the observance of Remembrance Day. Work must not be performed on the holiday except in farming, in certain listed essential services, in continuously operating plants, or in emergency circumstances on permit from the Minister of Labour.

An employee who is required to work on Remembrance Day must be paid at least his regular rate of wages and must be granted a day off with pay within 30 days before or after the holiday. In lieu of being given a day off, an employee must be paid twice his regular rate for the time worked. Where an employee is called in to work, he must be paid for the time worked or for not less than half the normal working hours of a regular working day, whichever is greater.

New Brunswick

In New Brunswick, provisions have been made for six paid general holidays under the Minimum Employment Standards Act -- New Year's Day, Dominion Day, Labour Day, Good Friday, Christmas Day and New Brunswick Day (first Monday in August).

The holiday provisions do not apply to employees who have worked less than 90 days in the previous 12 months; who have not worked for all or part of at least 15 days during the 30 calendar days immediately preceding the holiday; who fail to work on the scheduled work day immediately preceding or following the holiday; who after agreement, without reasonable cause, fail to report for and perform the work; or who work under an agreement whereby they elect to work when requested to do so.

The employer shall give the holiday and pay to the employee his regular wages for each public holiday. Upon mutual arrangement, another day may be substituted, not later than the next annual vacation, for a public holiday. When a holiday falls upon a non-working day, or in an employee's vacation, an employer shall pay the employee his regular wages or designate another working day. Work on a public holiday is compensated at one and one-half times the regular rate and is not taken into consideration in calculating overtime. If an employee ceases his employment before a substituted day is taken, the employer shall pay to him the wages for that day. Where wages vary from day to day, the pay for a public holiday shall

not be less than the average daily wage earned over the preceding 30 calendar days. A payment of 3 per cent of gross pay is equivalent to the public holiday benefits.

Where an employee is employed in a hotel, motel, tourist resort, restaurant, tavern or any continuous operation, and the employee, because of the nature of the operation, is required to work on a public holiday, the employer shall pay the employee one and one-half times his regular rate or pay him his regular rate and substitute another working day for the public holiday.

Nova Scotia

The Nova Scotia Labour Code provides for five paid general holidays -- New Year's Day, Good Friday, Dominion Day, Labour Day and Christmas Day. Under certain conditions, another day may be substituted for any of these holidays.

The holiday provisions do not apply to domestic servants in private homes, professional practitioners and trainees, various categories of salesmen, employees covered by a collective agreement, fishermen, fish packing employees, certain workers in the petrochemical industry, and persons working in specific areas of primary farming.

An employee is entitled to a holiday with pay for each general holiday falling within any period of his employment.

If the employee is hired by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, he must receive the equivalent of the wages he would have earned at the regular rate of wages for his normal working day.

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately following the general holiday, or on the day immediately following his annual vacation or on a day agreed upon by the employee and his employer.

Where an employee is required to work on a holiday he must be paid at a rate equal to one and a half times his regular rate of wages for the time worked by him on that day. Where an employee employed in a "continuous operation" is required to work on a holiday, he must be paid as described above or he may be granted a holiday with pay on the working day immediately following his annual vacation, or on another day agreed upon by the employee and the employer.

An employee is not entitled to a holiday with pay if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday; or if he is absent on either of the working days immediately preceding or following the holiday. (This provision is not applicable if the employer has directed him not to report on either day.) An employee in a continuous operation is not entitled to be paid for a general holiday on which he did not report for work after having been called upon to work on that day.

Ontario

The Ontario Employment Standards Act, 1974, provides for seven public holidays. The holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. An employer shall give to an employee a holiday on and pay to the employee his regular wages for each public holiday.

The holiday provision does not apply to an employee who is employed for less than three months; has not earned wages on at least 12 days during the four weeks immediately preceding a public holiday; fails to work his scheduled regular day of work preceding or following a public holiday; has agreed to work on a public holiday and who, without reasonable cause, fails to report and perform the work; or is employed under an arrangement whereby the employee may elect to work or not when requested to do so.

This provision likewise does not apply to an employee of a telephone company owning or operating a telephone system, switchboard or exchange serving fewer than 300 subscribers; managers and supervisors; hunting or fishing guides; employees in landscape gardening, mushroom growing, flower growing for retail or wholesale or the growing, transporting and laying of sod; homeworkers; students employed as supervisors or instructors of children or at a children's camp; a student directly employed in a recreational program operated by a charitable organization; resident superintendent, janitor or caretaker; commissioned salesmen (excluding route salesmen); primary farm labourers; or funeral directors or embalmers.

Where a public holiday falls upon a working day for an employee, an employer may with the agreement of the employee or his agent substitute another working day for the public holiday not later than the employee's next annual vacation.

When the holiday falls on an employee's non-working day or in his vacation, the employer may pay the employee his regular rate of pay for that day or substitute a working day not later than the employee's next annual vacation in lieu thereof.

Where an employee works on a public holiday, he is entitled to not less than time and one-half for each hour worked plus his regular wages for that day. Work on a public holiday is not taken into consideration for calculating overtime in that week.

Where an employee works in a hotel, motel, tourist resort, restaurant, tavern, continuous operation or a hospital and the employee is required to work and works on a public holiday, the employer shall pay the employee in accordance with the above, or pay the employee the regular rate for each hour worked and give to the employee a holiday on his first working day following his next annual vacation or on a working day agreed upon and pay his regular wages for that day.

If employment ceases before a substituted day is taken, the employer shall pay to the employee his regular wages for that day.

Québec

Effective May 25, 1977, Ordinance No. 15 established the 24th day of June as a paid legal holiday. It is universal in its application with the exception of the employer's spouse or children.

If the holiday falls on a Saturday the preceding Friday is the holiday, and if it falls on Sunday, the Monday following is celebrated.

Remuneration for work done at that day is at double time. The employee must be present on the day preceding and the day following the holiday to benefit from it.

Saskatchewan

In Saskatchewan, a minimum wage order requires employees who do not work on any of nine public holidays to be paid their regular pay. For workers in the construction industry and in logging and lumbering, the order provides for payment of a lump sum in lieu of pay for the nine listed holidays. The nine holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day and Saskatchewan Day (first Monday in August).

When Christmas or New Year's Day falls on Sunday, the following Monday is to be observed as a holiday. When the Monday following Remembrance Day is declared a holiday, it is to be observed as a holiday under the order. By agreement between an employer and a trade-union representing a majority of the employees in an appropriate bargaining unit, another working day may be substituted for any of the nine listed holidays. Where workers are not represented by a trade-union, the Minister of Labour may by order permit a similar substitution, if he is satisfied that the employer and a majority of the employees are in favour of the change.

The order applies to all employees except managerial employees, employees employed in a family employee undertaking, employees in farming, ranching and market gardening (other than in egg hatcheries, greenhouses, nurseries, and brush clearing operations), and handicapped workers in sheltered workshops.

If required to work on a holiday, employees in almost all workplaces must receive, in addition to their regular pay for the holiday, time and one-half the regular rate for every hour or part of an hour worked; in effect, two and one-half times their regular pay.

A major exception to the above rule is that workers in hotels, restaurants, hospitals, nursing homes and educational institutions who are required to work on a holiday must be paid, in addition to their regular pay, time and one-half the regular rate. In addition to being paid their regular pay, full-time employees may be given time off equivalent to the hours worked on the holiday at regular rates plus one-half within four weeks.

Persons engaged in the operation of a well-drilling rig are required to be paid at their regular rate of wages, plus their normal pay for the day, for work performed on a holiday.

The order provides that, where an employee's wages, exclusive of overtime, vary from day to day, pay for a public holiday is to be calculated on the basis of his average daily wage, exclusive of overtime for the four immediately preceding days that bear the same name as the day on which the holiday occurs.

Workers in construction and in logging and lumbering who do not work on any of the nine specified holidays must be given holiday pay in a lump sum in an amount equal to 3.5 per cent of their gross wages for the calendar year, exclusive of overtime. Payment must be made on December 31 or on termination of employment, whichever occurs first. Where a majority of the employees in an appropriate bargaining unit are represented by a trade-union, the union and the employer may, by agreement in writing, elect that the workers be paid regular wages for each holiday, instead of a lump sum payment.

Construction workers who work on the holiday must be paid, in addition to the lump sum payment, wages at the rate of time and one-half their regular rate for all time worked. The latter amount must be paid in the pay period in which it is earned.

Workers in the logging and lumbering industries who work on a public holiday must be paid regular pay for all time worked, in addition to the lump sum payment to which they are entitled.

The Territories

In both territories, employees are entitled to a holiday with pay in respect of each of the general holidays listed in the ordinance. Both ordinances provide for nine general holidays. In the Yukon Ordinance, Discovery Day, is provided for. The first Monday in August is provided for in the Northwest Territories. Another holiday may be substituted for any of the listed holidays.

The Yukon Ordinance states that, where a general holiday falls on a Sunday, the Monday following is to be a holiday with pay.

The Labour Standards Officer may allow another holiday with pay to be substituted for a general holiday if another holiday is specified in a collective agreement or, where there is no collective agreement, if an employer applies for a substitution and the majority of the employees agree.

In the Northwest Territories, an employee is entitled to a holiday with pay only when a general holiday falls on a regular working day.

In the Northwest Territories, if an employee is required to work on a holiday, he must be paid at his regular rate plus one and one-half times the regular pay for the day or he must be given a holiday with pay at a time convenient to him and his employer, not later than his next annual vacation or on termination of employment, whichever occurs first.

The Yukon Ordinance follows the Canada Labour Code, Part III (Labour Standards), in requiring, for work done on a holiday, payment of regular pay plus wages at the rate of time and one-half for the hours worked. This provision does not apply to custodial work or essential services as prescribed by regulations. A person employed in any such employment must be granted a holiday with pay at another time in lieu of a holiday on which he was required to work.

In the Northwest Territories, an employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a non-working day, unless he is paid at least double his regular rate of wages, and in the Yukon Territory at least one and one half times his regular rate of wages for the time worked by him on that day.

The circumstances under which payment of holiday pay is not required differ in the ordinances.

In the Yukon, an employee is not entitled to pay in respect of a holiday on which he does not work (a) if the holiday occurs in his first 30 days of employment with an employer, or (b) if he is not entitled to wages for at least 15 days in the 30 calendar days immediately preceding the holiday, or (c) if he has not worked an average of 24 hours a week during the four-week period immediately preceding the week in which the holiday falls (excluding any period of annual vacation), or (d) if he did not report for work on the holiday after having been called to work, or (e) if, without his employer's consent, he did not report for work on either the day preceding or the day following the holiday.

Under the Northwest Territories Ordinance, an employee is not entitled to be paid for a holiday if he has not worked for his employer for at least 30 days in the preceding 12 months. Other exceptions are the same as in (d) and (e) above.

Other Legislation Dealing With Holidays

Provisions in the minimum wage order of Manitoba deal with the question of pay for public holidays to the extent of prohibiting deductions from the minimum wage for time not worked on a holiday.

Workers are protected against a reduction in the minimum wage for time not worked on a general holiday (as listed above) which falls on a regular working day. Where an employee does not work on a holiday but does work the regularly scheduled hours on the days immediately preceding and following the holiday and on all the other working days in the week, he is to be deemed, for the purpose of determining the minimum amount of wages to be paid to him for that week, to have worked regular hours on the holiday. An employee does not lose the benefits of this provision through being absent on either the day before or the day after the holiday because of established illness or with the employer's consent.

Under the Municipal Act of British Columbia, shops in all municipalities must be closed on Christmas Day and the day immediately following, New Year's Day, Good Friday, Dominion Day, Victoria Day, Labour Day, Remembrance Day, the Queen's Birthday, Thanksgiving Day and any day designated as a provincial or municipal holiday. There is also legislation in Newfoundland requiring shops to be closed on 13 specified public holidays and on one additional holiday fixed by the municipality.

Under the New Brunswick Closing of Retail Establishments Act no retail establishments shall be open to the general public for the purpose of carrying on business on New Year's Day, Good Friday, Dominion Day, Sovereign's Birthday, Victoria Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day, Easter Monday, New Brunswick Day, or any day appointed by provincial statute or proclaimed by the Governor General or the Lieutenant-Governor as a general holiday within the province.

The Québec Commercial Establishments Business Hours Act requires shops to remain closed on New Year's Day, Easter Monday, St. Jean Baptiste Day or the day following if June 24 is a Sunday, Dominion Day or the day following if July 1 is a Sunday, Labour Day, Thanksgiving Day, Christmas Day or any other day fixed by proclamation of the Lieutenant-Governor-in-Council. Shops must not open before 1 p.m. on Boxing Day or on January 2.

Provisions prohibiting work on specified public holidays except with a permit, stipulating that certain holidays must be observed as paid holidays, or requiring the payment of an overtime rate for work done on specified holiday are regular features of the decrees under the Québec Construction Industry Labour Relations Act and Collective Agreement Decrees Act and of industrial standards schedules in Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan. These provisions, while regulating a considerable portion of industry, particularly in Québec, apply only to certain trades and areas in the provinces concerned. They are not dealt with in this publication.

TERMINATION OF EMPLOYMENT AND SEVERANCE PAY

The federal jurisdiction and eight provinces -- Alberta, Manitoba, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan -- have legislation requiring an employer to give notice to the individual worker whose employment is to be terminated. Five of these provinces place an equal obligation on the employee to give notice to his employer before quitting his job.

In addition, the Parliament of Canada, Manitoba, Newfoundland, Nova Scotia, Ontario and Québec require an employer to give advance notice of a projected termination of employment or layoff of a group of employees.

The Canada Labour Code also provides for severance pay for employees with five years' service or more. No other jurisdiction has severance pay provisions.

In seven jurisdictions the legislation is part of the Labour Code: the Canada Labour Code, Part III, Divisions V.2, V.3 and V.4; the Alberta Labour Act 1973, Part III; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, 1974, Part XII; the Nova Scotia Labour Standards Code, sections 68-74; the Prince Edward Island Labour Act, Part II; and the Saskatchewan Labour Standards Act (1977), Part VII. Newfoundland has separate laws, the Employment (Notice of Termination) Act, the Termination of Employment Act, 1973. The provisions in Québec governing individual notice are contained in the Civil Code; notice of group termination requirements are laid down in Section 45 of the Manpower Vocational Training and Qualification Act and a general regulation made under it.

Federal

Individual Notice

Employees who have been continuously employed for three months or more are entitled to two weeks' notice of termination of employment or layoff. Regulations define circumstances in which notice is not required for layoff. In lieu of notice, the employer may pay an amount equivalent to two weeks wages at the employee's regular rate for his regular hours of work.

The requirement to give notice does not apply to superintendents, managers or members of listed professions, or where an employee is dismissed for just cause.

Where an employee continues to be employed for more than two weeks after the termination date specified in the notice, his employment must not be terminated, except with his written consent, unless notice is given again.

The Code takes into account the bumping provisions that may be contained in collective agreements. Where a collective agreement authorizes that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met either by giving at least two weeks' notice to the union and the employee and posting a copy of the notice in a conspicuous place in the establishment, or by giving pay in lieu of notice to the employee whose employment is actually terminated.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee. During the notice period the employee must be paid his regular wages for his regular hours of work.

Group Notice

The Code also requires that the employer give notice of group dismissals where the employment of 50 or more persons is to be terminated simultaneously or within a four-week period. Regulations may be made providing for advance notice where a lesser number of employees is being dismissed.

For purposes of group dismissals, layoff is equivalent to termination, except in circumstances determined by regulations.

The length of notice period varies according to the number of employees being dismissed:

50 - 100	8 weeks
101 - 300	12 weeks
over 300	16 weeks.

Superintendents and managerial employees are to be included in calculating the number of employees being dismissed. Regulations exclude employees from the group notice provisions when they are employed on a seasonal or irregular basis or under an arrangement whereby the employee may choose to work or not when requested to do so.

Advance notice must be given in writing to the Minister of Labour, with copies to the Department of Employment and Immigration and the trade-union. Where there is no union, notice must be given to the employees being dismissed, either in writing or by posting a notice in the establishment.

The notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment is to be terminated. The regulations require that the notice also include the name of the employer and any trade-union acting as bargaining agent, the location at which termination is to

take place, the nature of the industry, and the reason for termination. In addition, the employer and trade-union must provide the Employment and Immigration Department with whatever information it requests in order to assist the employees. Both are required to co-operate with that Department in order to facilitate the re-employment of the dismissed employees.

The requirement to give group notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employees or the operation of the establishment.

A Canada Labour Standards Regulation defines industrial establishment for the purposes of group notice as all branches of an employer's business located in a regional division established under the Unemployment Insurance Act. Schedules outline what constitutes an industrial establishment for the CNR, CPR, Air Canada and CP Air.

Severance Pay

The Canada Labour Code requires an employer to give an employee who has completed five years of continuous employment severance pay upon termination of employment by the employer. The severance pay must be equivalent to two days' wages at his regular rate of wages for his regular hours of work for each completed year of employment that is within the term of his continuous employment by the employer, up to a maximum of 40 days' wages.

The employer is exempt from the severance pay provisions if, either before or immediately upon termination, the employee is entitled to a pension under a pension plan contributed to by the employer and registered in accordance with the Pension Benefits Standards Act. By the same token, the severance pay provisions do not apply if the employee is similarly entitled to a pension under the Old Age Security Act, or to a retirement pension under the Canada Pension Plan or the Québec Pension Plan.

General Provisions

The Canada Labour Standards Regulations define circumstances under which layoff is not considered termination of employment for purposes of individual and group notice and severance pay.

Notice is not required where the layoff is the result of a strike or lockout, is for a term of three months or less, or is made pursuant to the provision of a collective agreement that has the effect of regulating the size of the workforce.

In certain circumstances, a layoff of more than three months also does not constitute termination where the employer notifies the employee that he will be recalled on a fixed date or within a fixed period of up to six months and the employee is actually so recalled; or where, during layoff, the employee continues to receive payments from the employer in amounts mutually agreed upon, the employer continues to make payments to a pension plan, or the employee receives supplementary employment benefits or is entitled to do so.

Continuity for the purposes of group and individual termination, severance pay and maternity leave is not to be broken where an employee is absent from work because of a layoff that does not constitute termination or where the absence is permitted or condoned by the employer.

Alberta

Individual Notice

The Board of Industrial Relations has established, by order, requirements for notice of individual termination. The minimum requirements are:

3 months but less
than 2 years . . . 7 days

2 years or more . . 14 days.

The Board may also make orders requiring payment in lieu of notice of termination; specifying where notice of termination is not required; exempting any class of employers or employees from the application of termination orders; prescribing how notice of termination is to be given and its form and content; and defining "termination" and "period" of employment.

These requirements do not apply to an employer and his employees where there is a custom, practice or agreement providing for a longer notice or upon payment of a greater sum of money in lieu of notice of termination of employment.

Neither these provisions nor any order of the Board affect the right of an employee at common law to be paid, or the duty imposed upon an employer to provide longer notice or a greater sum of money in lieu of termination of employment than that specified in an order of the Board.

Manitoba

Individual Notice

In Manitoba, an employer or employee in any work or occupation, except farming, must give notice of termination of employment and, except in the case of a person paid less frequently than once a month, the period of notice required is one regular pay period. If the employees are paid less often than once a month, reasonable notice must be given. Notice of termination is not required if an employee is hired for a fixed period unless the employment is, by mutual agreement, continued after the end of the period. Notice is also not required if the employment of an individual is terminated due to violent or improper conduct.

The requirements for giving notice do not apply if a general custom or practice prevails in an industry which is contrary to the terms of the Act or where different conditions concerning notice are established by collective agreement. If employment is terminated during an employee's first two weeks in a job, notice is not required unless the employer and employee have agreed in writing that the requirements of the Act will apply.

An employer is permitted to establish a practice whereby employment may be terminated with a shorter period of notice than that provided for in the Act, and the practice is considered to have been established one month after he has notified each of his employees in writing of the practice and has posted a notice setting out the terms of the practice. Each new employee must be informed of the practice by written notice at the time employment begins.

Complaints of failure to give the required notice may be made in writing to the Minister of Labour within a period of 90 days after employment is terminated. The Minister may himself inquire into it or may refer it to the Labour Board for investigation. A procedure is laid down in the Act for the settlement of such complaints.

Group Notice

Manitoba requires that advance notice of group dismissals where 50 or more employees are to be dismissed within a period of four weeks be given in writing to the Minister of Labour. Copies must be sent to the certified or recognized union. Where there is no union, the notice must be given to the employees being dismissed either in writing or by posting a notice in the establishment. The written notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment will be terminated. Regulations may require that the notice include additional information. In addition, there must be cooperation with the Minister to re-establish the employment of the dismissed employees.

The notice period varies with the number of employees to be dismissed:

50 - 100	8 weeks
101 - 300	12 weeks
over 300	16 weeks.

Notice for group termination does not apply when the employees are employed for a definite term or task of 12 months or less; laid off according to regulations*, or after refusing reasonable alternate work offered by the employer or by a seniority system; laid off and do not return to work within a reasonable time after being requested to do so by their employer; on strike or locked out; employed in the construction industry; guilty of wilful misconduct, disobedience or neglect of duty; employed under contract that is or has become impossible to perform or is frustrated by a fortuitous or unforeseeable event; employed under an arrangement whereby they may elect to work or not to work for a temporary period; or at the age of retirement according to the established practice of the employer. The Minister may, by order, make exemptions from the provisions of the Act dealing with group termination if the application of the provisions is unduly prejudicial to the interests of the employees or employer or if it would be seriously detrimental to the industrial establishment.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee or if there is a collective agreement in force which authorizes changes or variations.

The employer may terminate the employment of an employee without notice if he notifies the employee in writing to this effect and pays him the equivalent of the wages he would have earned for working regular hours during the notice period as well as any unpaid vacation pay to which the employee is entitled.

Any employee who wishes to terminate his employment prior to the expiration of the period of notice must give written notice of such action to his employer.

*A layoff is not considered a termination of employment where (1) the industry is seasonal in nature; or (2) the employee is laid off for a reasonable period, then recalled; or (3) in a non-seasonal industry, the layoff is of reasonable length, the employee is told the date on which he is to be recalled, and he is recalled on or before that date.

The employer and the trade union representing the employees affected by the termination must co-operate with the Minister in any action or program aimed at facilitating the re-establishment in employment of the employees involved.

The requirement to give notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employer, employees or the operation of the establishment.

Newfoundland

In Newfoundland, both the employer and the employee are required to give notice of termination of employment. Where an employee is paid once a month or more often, the required period of notice is one regular pay period. Where the employee is paid less often, reasonable notice must be given. In lieu of notice, an employer may pay an employee the normal wages, exclusive of overtime, that he would have earned during the period of notice.

Notice of termination is not required where employment is interrupted by a strike or lockout, or during the first month of employment, or where the employee is hired for a fixed period or for the performance of specified work, unless by mutual agreement the work is continued after the end of the period or the completion of the work.

The requirements of the Act regarding the period of notice do not apply where a different period is established in a collective agreement, or in a written agreement of employment between the employer and employee, if the notice period is of equal length for both parties. Further, a well-established general custom or practice in any industry respecting the period of notice may be continued, in lieu of the period of notice provided for in the Act.

All employers and employees within the jurisdiction of the province are covered by the Act. Regulations may be made exempting any industry or class of persons from coverage.

The Termination of Employment Act, 1973 was proclaimed effective on May 5, 1976.

The notice of termination of employment shall not be less than:

- eight weeks' notice if the employment of 50 or more and less than 200 persons is to be terminated;
- 12 weeks' notice if the employment of 200 or more and less than 500 persons is to be terminated;
- 16 weeks' notice if the employment of 500 or more persons is to be terminated.

Nova Scotia

Individual Notice

In Nova Scotia, the Code forbids an employer to discharge or lay off an employee who has been employed for three months or more without first giving him written notice in case of either individual or group termination.

In cases of individual termination, the notice period varies with the length of service:

3 months - 2 years	1 week
2 - 5 years	2 weeks
5 - 10 years	4 weeks
10 years or more . . .	8 weeks

Group Notice

Notice of group termination must be given to each employee affected where 10 or more employees are to be discharged or laid off during a period of four weeks or less. The notice period varies with the number of employees being dismissed. The Minister of Labour must be informed in writing of any group notice.

10 - 99	8 weeks
100 - 299	12 weeks
300 or more . . .	16 weeks.

General Provisions

An employee employed for three months or more must also give his employer notice before quitting his job unless the employer has been guilty of a breach of the terms and conditions of employment. The notice period depends upon the length of employment:

3 months to 2 years . . .	1 week
2 years or more	2 weeks.

Where a person continues to be employed after the expiry of the notice for a period exceeding the length of notice, he must be given notice again before his employment may be terminated.

Successive periods of employment may be accumulated unless there has been a break of more than 13 weeks in employment, in which case the last period of employment is counted.

An employer must not alter wages and conditions of employment once notice is given, whether by the employer or employee, and must, upon the expiry of the notice, pay the employee all pay to which he is entitled.

Notice may be made conditional upon the happening of a future event if the required notice period is observed.

An employer may terminate an employee's employment immediately upon giving notice if he gives the employee pay in lieu of notice. This pay must be equivalent to the amount the employee would have earned at his regular rate in a normal, non-overtime workweek during the required notice period.

As already mentioned, notice is required in case of layoff. The requirement does not apply where a person is laid off for 6 consecutive days or less, or in circumstances defined by regulations. An employee who is not entitled to notice because of the duration of his layoff and whose employment is subsequently terminated (by continued layoff or otherwise) must be given pay in lieu of notice as if his employment had been terminated without notice when he was first laid off.

The requirement to give notice does not apply where the employee has been guilty of wilful misconduct or disobedience, or wilful neglect of duty that has not been condoned by the employer.

Persons employed for a definite term or task for a period of 12 months or less are not entitled to notice. However, if the person continues to be employed for three months or more after the completion of his term or task, he is to be considered a regular employee and therefore entitled to notice. His period of employment is deemed to begin at the commencement of the term or task.

In additions, persons discharged or laid off for any reason beyond the control of the employer are not entitled to notice if the employer has exercised due diligence to foresee and avoid the cause. Among these reasons are labour disputes, destruction of plant or machinery, unavailability of materials, cancellation or lack of orders, and actions of government authority.

Excluded also are persons who have been offered reasonable alternate employment by the employer or who have reached retirement age according to the established practice of the employer. Employees in the construction industry are excluded from the requirement both to receive and to give notice. Furthermore, regulations may exempt persons employed in any activity, business, work, trade, occupational profession or any part of these.

The length of notice does not include any week of vacation unless the employee agrees to take his vacation during the notice period.

Ontario

Individual Notice

In Ontario, an employer is required to give notice in writing to an employee whose employment is to be terminated, provided the employee has completed three months' service or more. The length of notice varies with the period of employment, as follows:

3 months to 2 years	1 week
2 to 5 years	2 weeks
5 to 10 years	4 weeks
10 years or more	8 weeks.

A period of employment constitutes the period between the time employment first began and the time that notice was or should have been given. Successive periods of employment may be accumulated, unless there has been a break of more than 13 weeks in employment. In such a case, the period of last employment constitutes the length of service for purposes of the notice.

Group Notice

The group notice requirement applies when an employer plans to terminate the employment of 50 or more persons within four weeks or less. The length of notice is related to the number of workers involved. The minimum written notice that must be given by the employer to the employee and to the Minister of Labour is:

50 - 199	8 weeks
200 - 499	12 weeks
500 or more	16 weeks.

Where not more than 10 per cent of the persons employed in an establishment are to be dismissed in a four-week period, and these total 50 or more persons, the requirement for notice in the case of individual dismissal applies, unless the termination is caused by the permanent discontinuance of all or part of the employer's business.

Persons who have been employed for less than three months are not to be counted in determining the number employed in an establishment and are not entitled to notice.

In the case of a collective dismissal, the employer is required to co-operate with the Minister during the period of notice in any action or program designed to re-establish the dismissed workers in employment.

Employees who have received notice of a collective termination of employment are required to give written notice to their employer that they intend to quit their jobs. One week's notice is obligatory for an employee who has worked for the employer for more than three months but less than two years, and two weeks' notice for one who has been employed for two years or more.

General Provisions

A number of provisions are applicable to both individual and group notice.

Where notice is given, employment must continue until the notice has expired. The length of notice may not include any week of vacation, unless the person, after receiving the notice, agrees to take his vacation during the notice period. Where a person continues to be employed after the expiry of the notice for a period exceeding the length of the notice, he must again be given notice before his employment may be terminated.

Under the legislation, the employer is required to give the prescribed notice or to pay the wage or salary equivalent. The employer terminating the employment of an employee without notice must notify him in writing to this effect and pay him the equivalent of the wages he would have earned for working regular hours during the notice period. Compensation payable in lieu of notice is deemed wages for purposes of the Act.

The employer is forbidden to alter the wage rate or any other term or condition of employment of a person to whom notice has been given, and upon the expiry of the notice must pay him the wages and vacation pay to which he is entitled.

The Act covers layoffs other than "temporary layoffs", as defined. Notice of indefinite layoff is deemed to be notice of termination of employment.

A "temporary layoff" is defined as: (1) a layoff of not more than 13 weeks in any period of 20 consecutive weeks; (2) a layoff of more than 13 weeks where (a) the person continues to receive payments from the employer, (b) the employer continues to make payments for the benefit of the person laid off under a bona fide retirement or pension plan or under a bona fide group or employee insurance plan, (c) the person laid off receives supplementary unemployment benefits, or (d) he is entitled to receive supplementary unemployment benefits, but does not receive them because he is employed elsewhere during the layoff; or (3) a layoff of more than 13 weeks where the employer recalls the person within the time fixed by the Director of Employment Standards.

The notice provisions do not apply to a person who is laid off or whose employment is terminated during or as a result of a strike or lockout at his place of work or who has been employed for less than three months. Also exempted from the requirement to receive notice are: (1) a person who is laid off after (a) refusing an offer by his employer of reasonable alternate work or (b) refusing alternate work made available to him through a seniority system; (2) a person on layoff who does not return to work within a reasonable time after being requested to do so by his employer; (3) a person employed under an arrangement such that he may elect to work or not for a temporary period when requested to do so; and (4) a person who has reached the age of retirement according to the established practice of the employer.

An employer is not required to give notice to a person employed for a definite term or task. Where, however, a term or task exceeds a period of 12 months or the person continues to be employed for three months or more after completion of the term or task, the notice provisions apply.

A person who has been guilty of wilful misconduct, disobedience or wilful neglect of duty that has not been condoned by the employer is not entitled to notice, and notice is not required where a contract of employment becomes impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance.

Any notice of termination may be made conditional upon the happening of a future event.

An employee may terminate his employment forthwith upon notice if his employer has been guilty of a breach of the terms and conditions of employment.

The construction industry has been exempted from the requirement to give notice. Other employers are covered, including the Crown and its agencies. Those entitled to notice include professional employees, teachers, commercial fishermen, domestic servants, farm workers and salesmen.

The regulations take into account the bumping provisions that may be permitted by the terms of employment. Where the terms of employment authorize that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met by posting a notice containing the salient facts in a conspicuous place in the establishment.

Prince Edward Island

In Prince Edward Island an employer is forbidden to discharge or lay off an employee who has been in his service continuously for three months or more without giving him at least one week's written notice. On termination the employee is entitled to his actual earnings during the week or his normal wages for one week, exclusive of overtime, whichever amount is greater. If notice is not given, the employee is entitled to his normal wages for one week, exclusive of overtime.

The Prince Edward Island Labour Act also requires an employee with three months' service or more to give his employer at least one week's notice of his intention to terminate his employment.

The requirement to give notice applies to all employees and their employers except farm workers and domestic servants. Also excluded are construction workers, tourist establishments operating less than six months in a year, and students employed during the period May 1 to October 1. In other circumstances notice is not required for dismissal for just cause including shortage of work.

Québec

Individual Notice

In Québec, Section 1668 of the Civil Code requires a domestic, servant, journeyman or labourer engaged by the week, month or year to give one week's notice of termination of employment if hired by the week, two weeks' notice if by the month, and a month's notice if by the year. The employer must give similar notice where an employee's services are no longer required.

Some decrees under the Québec Collective Agreement Decrees Act also require the giving of notice of termination of employment.

Group Notice

Under section 45 of the Manpower Vocational Training and Qualification Act, an employer who, for technological or economic reasons, contemplates the dismissal of 10 or more employees within a period of two months is required to give advance notice to the

Minister of Labour and Manpower. The minimum periods of notice required, varying with the number of workers to be dismissed, are:

10 to 99 . . .	2 months
100 to 299 . . .	3 months
300 and over . .	4 months

"Employee" does not include a seasonal or casual worker or a director or officer of a corporation.

The requirement to give notice does not apply to an employer in the construction industry or to an employer carrying on an undertaking of a seasonal or intermittent nature. The legislation does not apply to an establishment involved in a strike or lockout.

Layoffs are included in the term "dismissal" but the employer does not have to give notice if he lays off employees for an indefinite period of time, unless the layoff will continue for more than six months.

Where a fortuitous or unforeseeable event prevents an employer from giving notice, he must inform the Minister as soon as he is in a position to do so and furnish proof that he was unable to comply with the law. The Minister will then determine, in consultation with the employer, the period of notice that must be given.

The notice, which must be mailed by the employer to the Manpower Branch of the Department, and which becomes effective on the date of mailing, is to contain: (a) name and address of the employer or establishment; (b) nature of the principal product or service; (c) names and addresses of associations of employees (unions); (d) reasons for the collective dismissal; (e) date on which the collective dismissal will be made; and (f) full name of each employee likely to be dismissed.

The legislation also requires the employer, at the request of the Minister, to participate immediately in the establishment of a reclassification committee, whose task is to study and recommend practical measures for the re-establishment of the dismissed employees. The certified trade union or the employees, if there is no union, must be equally represented on the committee. The employer must contribute funds to the committee to the extent agreed upon by the parties. The Manpower Branch of the Department is responsible for the establishment and functioning of such committees.

The parties may, with the Minister's consent and subject to conditions laid down by him, establish a reclassification fund. If necessary, several employers and several certified trade unions may establish a joint fund.

Saskatchewan

An employer is forbidden to discharge or lay off an employee who has been in his service continuously for three months or more without giving him at least one week's written notice. On termination the employee is entitled to his actual earnings during the week or his normal wages for one week, exclusive of overtime, whichever amount is greater. If notice is not given, the employee is entitled to his normal wages for one week exclusive of overtime.

In Saskatchewan, an employee must receive full pay from his employer within 14 days after the day on which his termination becomes effective. Where an employee's wages vary from week to week, in Saskatchewan, his normal weekly wage is to be obtained by averaging his earnings, exclusive of overtime, for the four-week period immediately preceding the date on which notice was given or, if no notice was given, the date of discharge or layoff.

The employer shall within 14 days, pay to the employee, in addition to all amounts due to him, his average wage for his period of employment with the employer. However, if the employee has at any time been entitled to take an annual holiday under any act, custom or agreement, or under his contract or service, the employer shall within 14 days pay the employee, in addition to all other amounts due to him, his average wage for his period of employment between the dates on which he became entitled to the last annual holiday that he was entitled to take and the date of the termination of employment.

The requirement to give notice applies to all employees and their employers except farm workers and domestic servants. Also excluded are ranching, certain handicapped persons, market gardening and employees employed in family undertakings.

In certain circumstances notice is not required, such as dismissal for just cause other than shortage of work.

10. Notice of Individual Termination

Jurisdiction	Notice Required	Application
Federal	2 weeks	Employers in federal industries Exclusions: employed less than 3 months, superintendents, managers, members of professions
Alberta	3 months but less than 2 years: 7 days 2 years or more: 14 days	Employers and employees Exclusions: where there is a custom, practice or agreement providing for (a) a longer notice of termination of employment, or (b) the payment of a greater sum of money in lieu of notice of termination of employment.
Manitoba	Pay period	Employers and employees Exclusion: employed less than 2 weeks, farm workers
Newfoundland	Pay period	Employers and employees Exclusion: employed less than 1 month
Nova Scotia	Employed 3 months to 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: 8 weeks	Employers Exclusion: construction industry Employees: 3 months to 2 years - 1 week; 2 years or more - 2 weeks
Ontario	Employed 3 months to 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: 8 weeks	Employers Exclusion: construction industry Employee under notice of mass layoff. 3 months to 2 years - 1 week; 2 years or more - 2 weeks

Jurisdiction	Notice Required	Application
Prince Edward Island	1 week	Employers and employees Exclusion: employed less than 3 months, farm workers, construc- tion
Québec	Hired by week: 1 week Hired by month: 2 weeks Hired by year: 1 month	Listed employees and their employers: domestics, servants, journeymen, labourers
Saskatchewan	1 week	Employers Exclusion: employed less than 3 months, farming, ranching, market gardening

11. Notice of Group Termination

Jurisdiction	Number of Employees	Notice Required
Federal	50 - 100	8 weeks
	101 - 300	12 weeks
	over 300	16 weeks
Manitoba	50 - 100	8 weeks
	101 - 300	12 weeks
	over 300	16 weeks
Newfoundland	50-199	8 weeks
	200-499	12 weeks
	500 or more	16 weeks
Nova Scotia	10 - 99	8 weeks
	100 - 299	12 weeks
	300 or more	16 weeks
Ontario	50 - 199	8 weeks
	200 - 499	12 weeks
	500 or more	16 weeks
Québec	10 - 99	2 months
	100 - 299	3 months
	300 or more	4 months

MATERNITY PROTECTION

Legislation to ensure the health and job security of women working before and after childbirth is in force in the federal jurisdiction and in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan.

The federal maternity leave provisions are contained in the Canada Labour Code, Part III, Division V.1. Alberta has an Industrial Relations Order covering the point. British Columbia has a special law on the subject, the Maternity Protection Act. The Manitoba provisions are contained in subsection 34.1 of the Employment Standards Act. The New Brunswick provisions are sections 11-13 of the Minimum Employment Standards Act, a law which regulates various conditions of employment. Nova Scotia's maternity protection provisions are contained in sections 56 and 57 of the Labour Standards Code. The Ontario maternity protection provisions form Part XI of the Employment Standards Act, 1974. Saskatchewan's provisions are contained in Part IV of the Labour Standards Act, 1977.

The Canada Labour Code states that a woman who has been continuously employed by her employer for at least one year is entitled to 17 weeks of maternity leave. Employment is deemed continuous where a business is sold or otherwise transferred to a new employer. The employee must make application at least four weeks before her leave is to begin and she must also submit a certificate from a qualified medical practitioner specifying the estimated date of delivery.

Every employee is entitled to and shall be granted maternity leave consisting of a period not exceeding 17 weeks, if confinement occurs on or before the date specified in the certificate or the aggregate of 17 weeks plus an additional period equal to the term between the date specified in the certificate and the actual date of confinement, if confinement occurs after the date specified in the certificate. The leave is to begin no earlier than 11 weeks preceding the date in the certificate and to end no later than 17 weeks following the actual date of confinement.

The postnatal leave may be shortened by mutual agreement of the employer and employee, if the woman submits a medical certificate certifying that the resumption of employment at the earlier time will not endanger her health.

Provision is also made for the above leave in special cases where a woman has not submitted an application as required by the Code. The employee must present her employer with a medical certificate specifying the probable date of delivery and certifying that during her period of leave she was incapable of performing her normal duties because of a condition arising out of her pregnancy that was not anticipated by the physician.

Job security is guaranteed by prohibiting dismissal or layoff of an employee who is entitled to maternity leave solely because she is pregnant or because she has applied for maternity leave. An employee who resumes work after leave must be reinstated in the position she occupied before her leave began or in a comparable position with not less than the same wages and benefits. Maternity leave is not to interrupt continuity of employment for purposes of calculating pension or other benefits.

In Alberta, Ontario, Manitoba, Nova Scotia and Saskatchewan, an employee must have worked continuously for her employer for at least one year in order to be eligible for maternity leave rights.

Ontario, Nova Scotia and Manitoba provide for 17 weeks of maternity leave consisting of 11 weeks' voluntary prenatal leave and six weeks' compulsory postnatal leave. British Columbia and New Brunswick provide for 12 weeks of maternity leave, six weeks before and six weeks after childbirth, with the postnatal leave being compulsory. Alberta and Saskatchewan provide for 18 weeks of maternity leave, 12 weeks before and a compulsory period of six weeks after. On production of a medical certificate showing the expected date of confinement, the employee must be granted a period of leave of up to six or 12 weeks, depending on the province, preceding the specified date. In Saskatchewan, the employee may be granted the prenatal leave without application if she has bona fide medical reasons to cease work immediately and in Manitoba upon production of a medical certificate indicating the probable date of delivery and certifying that she is incapable of performing her duties because of a condition arising out of her pregnancy that was not expected by the physician. In Alberta and Ontario an employee who does not give two weeks' notice to her employer but who otherwise is entitled to pregnancy leave, shall, before the expiry of two weeks after she ceased to work, provide her employer with a certificate of a legally qualified medical practitioner stating that she was not able to perform the duties of her employment due to a condition arising from her pregnancy. The Alberta, Ontario, Manitoba, Nova Scotia and Saskatchewan Acts stipulate that the period of voluntary leave is to extend to the actual date of delivery.

In Ontario, Nova Scotia and Saskatchewan the employer has the right to require the employee to commence her leave at any time (in Saskatchewan up to a maximum of three months), if the duties of her position cannot reasonably be performed by a pregnant woman or if her performance is materially affected by the pregnancy. The employee must produce a doctor's certificate when required to do so by the employer.

The British Columbia and New Brunswick Acts forbid the employer to permit an employee to work during the six-week period following childbirth or during a longer period than six weeks, if recommended in a medical certificate. In Saskatchewan, a further six

weeks may be granted the employee upon production of a medical certificate giving bona fide reasons why the employee is unable to return to work. The Manitoba, Nova Scotia and Ontario laws do not provide for extension of the postnatal leave on medical grounds. In Manitoba, Nova Scotia, Ontario and Saskatchewan the obligation is on both the employee and the employer to observe the six weeks' compulsory leave, unless a shorter period is agreed upon by both parties and is supplemented by the recommendation in writing by a medical practitioner.

The federal, Manitoba, Nova Scotia, Ontario and Saskatchewan jurisdictions allow flexibility in the taking of maternity leave. Leave may be taken at any time commencing in the allowable period before the due birth date and terminating 17 or 18 weeks later (whichever is applicable).

In all seven provinces, the right to maternity leave is supplemented by a guarantee that an employee will not lose her employment because of her absence on maternity leave. In Alberta, Manitoba, Nova Scotia and Ontario a woman with a minimum of one year's service is protected against dismissal throughout pregnancy. In British Columbia and New Brunswick, an employer is forbidden to give notice of dismissal and to dismiss an employee for reasons arising out of absence on maternity leave during a period of 16 weeks. In Manitoba, an employer is not required to reinstate an employee when she has remained absent from work for a period of more than 10 weeks following the actual date of delivery. The maximum amount of leave to which an employee is entitled in Saskatchewan must not exceed 18 weeks.

In Alberta, Nova Scotia, Ontario and Saskatchewan, the employer is required to permit the employee to resume work with no loss of seniority or accrued benefits. In Manitoba, for the purpose of calculating pension and other benefits employment after the termination of maternity leave is to be considered as continuous with employment before commencement of the leave.

In British Columbia, New Brunswick and Saskatchewan an employer may not dismiss, lay off, suspend or otherwise discriminate against an employee by reason of the fact that she is pregnant. This is regardless of the fact that she has not been employed for one year. A similar clause is contained in proposed legislation amending the Canada Labour Code.

In Alberta or Ontario, where the employer has suspended or discontinued operations during an employee's pregnancy leave, the employer shall, upon resumption of operations, reinstate the employee to her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time her leave of absence began with no loss of seniority or

benefits accrued to the commencement of her leave of absence or in the absence of such a system shall reinstate her in her position or provide alternative work at no loss of pay, seniority or accrued benefits.

In Nova Scotia, certain employers may be exempted from the maternity protection provisions by regulation. In Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan the provisions apply to employers with one or more employees.

The federal jurisdiction and Nova Scotia allow for the taking of maternity leave at any time from 11 weeks before expected delivery for a total of 17 weeks.

LABOUR STANDARDS LEGISLATION

Federal

Canada Labour Code (R.S.C. 1970, c.L-1, Part III as am.)

Canada Labour Standards Regulations (SOR/72-7 as am.)

Minimum Hourly Wage Order 1976, (SOR/76-39

Fair Wages and Hours of Labour Act (R.S.C. 1970, c.L-3)

Fair Wages and Hours of Labour Regulations (SOR/67-95
as am.)

Holidays Act (R.S.C. 1970, c.H-7)

Alberta

Alberta Labour Act, 1973, (S.A. 1973, c.33 Part III as am.)

Minimum Wage Order No. 1 (1976) (A. Reg. 19/77)

Part-time Students Minimum Wage Order No.2 (1976)
(A. Reg. 20/77)

Vacations with Pay Order No.31 (1973) (A. Reg. 263/73)

Adolescents and Young Persons Employment

Regulations (A. Reg. 318/74)

Notice of Termination of Employment

Order No. 61 (1975) (A. Reg. 53/76)

Hours of Work Order No. 11 (1973) (A. Reg. 260/73)

General Holidays Order No. 21 (1972) (A. Reg. 380/72)

Maternity Leave Order No. 71 (1976) (A. Reg. 305/76)

British Columbia

Annual and General Holidays Act (R.S.B.C. 1960, c.11, as am.)

Annual and General Holidays Regulation (B.C. Reg. 381/74)

Control of Employment of Children Act (R.S.B.C. 1960, c.75)

Hours of Work Act (R.S.B.C. 1960, c.82, as am.)

Hours of Work Regulations

Maternity Protection Act, 1966, (S.B.C. 1966, c.25)

Minimum Wage Act (R.S.B.C. 1960, c.230, as am.)

Minimum Wage Order 1 (1975) (General) (B.C. Reg. 724/75)

Minimum Wage Order 3 (1976) (Overtime) (B.C. Reg. 418/76)

Payment of Wages Act (S.B.C. 1962, c.45, as am.)

Public Construction Fair Wages Act (S.B.C. 1976, Bill 83)

Manitoba

Construction Industry Wage Act (R.S.M. 1970, c.C190; as am.)
Schedule of Regulations

Employment Standards Act. (R.S.M. 1970, C.E110; as am.)
Regulations (M. Reg. 87/73, M. Reg. 251/76)

Payment of Wages Act (C.C.S.M., C.P15; as am.)

The Remembrance Day Act (R.S.M. 1970, C.R80; as am.)

The Retail Businesses Holiday Closing Act (C.C.S.M., C.R.120)

The Shops Regulation Act (R.S.M. 1970, C.S110; as am.)

The Vacations With Pay Act (R.S.M. 1970, C.V20; as am.)

The Wages Recovery Act (R.S.M. 1970, C.W10)

New Brunswick

Closing of Retail Establishments Act (R.S.N.B. 1973, C.C-7; as am.)

Fair Wages and Hours of Labour Act (R.S.N.B. 1973, C.F-2)
Fair Wages and Hours of Labour Act Regulations (N.B. Reg. 58,
SOR 1963; as am.)

Minimum Employment Standards Act (R.S.N.B. 1973, C.M-12; as am.)
Regulation (N.B. Reg. 75-71; as am.)

Minimum Wage Act (R.S.N.B. 1973, C.M-13, as am.)

Minimum Wage Order (eff. June 1 1976)

New Brunswick Day Act (S.N.B. 1975, Bill 65)

Vacation Pay Act (R.S.N.B. 1973, C.V-1; as am.)

Newfoundland

Annual Vacation with Pay Act (R.S.N. 1970, C.9; as am.)

The Employment of Children Act (R.S.N. 1970, C.112; as am.)

Employment (Notice of Termination) Act (R.S.N. 1970, C.111;
as am.)

The Employment (Notice of Termination) (Records) Regulations,
1970 N. Reg. 48/70

Newfoundland (cont'd)

Hours of Work Act (R.S.N. 1970, C.158; as am.)

Minimum Wage Act (R.S.N. 1970, C.238; as am.)

Minimum Wage (No.1) Order, 1976 (N. Reg. 30/76)

Minimum Wage (Handicapped Persons) Order, 1973 (N. Reg. 97/73)

Minimum Wage (Handicapped Persons) Order, 1977 (N. Reg. 165/77)

The Termination of Employment Act, 1973 (S.N. 1973; Act No.19)

The Weekly Day of Rest Act (R.S.N. 1970, C.395; as am.)

The Weekly Day of Rest Regulation, 1971 (N. Reg. 35/71)

Nova Scotia

Labour Standards Code (S.N.S. 1972, C.10; as am.)

Regulations (O.C. No.76-1203)

Minimum Wage Order, General (N.S. Reg. 84/77)

Ontario

Employment Standards Act, 1974 (S.O. 1974, C.112)

Fruit, Vegetable and Tobacco Harvester, Regulation
(O. Reg. 320/75; as am.)

Benefit Plans Regulation (O. Reg. 654/75)

General Regulation, 1974 (O. Reg. 803/75; as am.)

Termination of Employment Regulation (R.R.O. 1970, Reg. 251)

Retail Business Holidays Act, 1975 (S.O. 1975 (Second Session) C.9)

Prince Edward Island

Labour Act (R.S.P.E.I. 1974, C.L-1; as am.)

Regulations

Board Order No.1-77 (O.C.N. EC 33/77)

Minimum Age of Employment Act (R.S.P.E.I., 1974 C.M.-11)

Québec

Civil Code (Masters and Servants) (Part) (Art. 1665A-1670)

Collective Agreement Decree Act (R.S.Q. 1964, C.143; as am.)

List of Decrees

Commercial Establishments Business Hours Act (S.Q. 1969, C.60)

Québec (cont'd)

Hours of Work Act (R.S.Q. 1941, C.165)

Orders

Industrial and Commercial Establishment Act (R.S.Q. 1964, C.150; as am.)

Regulation (O.C. No. 3787-72)

Labour Standards Regulation (O.C. 1399-68)

Manpower Vocational Training and Qualification Act (S.Q. 1969, C.51; as am.)

General Regulation (O.C. No. 717-70)

Minimum Wage Act (R.S.Q. 1964, C.144; as am.)

Ordinance No.3, 1972, Vacation (O.C. 2122-72, as am.)

Ordinance No.4, 1972, General (O.C. 2123-72; as am.)

Ordinance No.9,. 1970, Forest Operation (O.C. 1976-70; as am.)

Ordinance No. 10, 1969, Sawmills (O.C. 2474-69; as am.)

Ordinance No.13, 1976, Public Work (O.C. 1962-76; as am.)

Ordinance No.14, 1973, Retail Food Trade (O.C. 783-73; as am.)

Ordinance No.15, 1977, Paid Legal Holiday (O.C. 1601-77)

Weekly Day of Rest Act, (R.S.Q. 1964)

Regulations

Saskatchewan

Labour Standards Act, 1977 (S.S. 1976-77)

Labour Standards Regulation (S. Reg. 317/77)

Order No.1 (1978) General (S. Reg. 367/77)

Order No.2 (1977) Public Holidays (S. Reg. 310/76)

Order No.3 (1977) Special Provisions (S. Reg. 311/76)

Order No.4 (1977) Statement of Earnings (S. Reg. 312/76)

Minimum Wage Board Regulation No.1

Minimum Wage Board Order No. 1962 "A"

The Wage Recovery Act (R.S.S. 1965, C.296)

Northwest Territories

Labour Standards Ordinance R.O.N.W.T. 1974, C.L-1; as am.)

Annual Vacation Regulations (Comm. O. 274-68)

Labour Standards Wages Regulations (Comm. O 140-74)

Employment of Young Person, Regulation (Comm. O. 417-74)

Wages Recovery Ordinance (R.O.N.W.7, 1974, C.W.-1; as am.)

Yukon Territory

Labour Standards Ordinance (R.O.Y.T., C.L1; as am.)

Regulations (Comm. O. 1968/116)

Commissioner's Order 1973/156

Commissioner's Order 1974/115

Commissioner's Order 1974/240

Wages Recovery Ordinance (O.Y.T. 1963 (2nd Sess.) C.2)



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